LOCAL RULES
UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF WASHINGTON

Effective Date September 1, 2013

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUDGES: *Telephone (Area code-509)*

Hon. Rosanna Malouf Peterson, Chief Judge
Ninth Floor, Thomas S. Foley U.S. Courthouse
920 West Riverside Avenue
P.O. Box 324, Spokane, WA 99210.. 458-5260
Judicial Assistant: Mary Strand. 458-5260
Courtroom Deputy: Cindy Parks 458-5263
Richland—When court in session.. 943-8170
Yakima—When court in session.. 573-6600

Hon. Thomas O. Rice
Ninth Floor, Thomas S. Foley U.S. Courthouse
920 West Riverside Avenue
P.O. Box 325, Spokane, WA 99210.. 458-2470
Judicial Assistant: Bridgette Fortenberry. 458-2470
Courtroom Deputy: Linda Hansen 458-2473
Richland—When court in session.. 943-8170
Yakima—When court in session.. 573-6600

Hon. Justin L. Quackenbush, Senior Judge
Ninth Floor, Thomas S. Foley U.S. Courthouse
P.O. Box 1432, Spokane, WA 99210.. 458-5280
Judicial Assistant: Lee Ann Mauk. 458-5280
Richland—When court in session.. 943-8170
Yakima—When court in session.. 573-6600

Hon. Wm. Fremming Nielsen, Senior Judge
Ninth Floor, Thomas S. Foley U.S. Courthouse
P.O. Box 2208, Spokane, WA 99210.. 458-5290
Judicial Assistant: Joanna Knutson. 458-5290
Richland—When court in session.. 943-8170
Yakima—When court in session.. 573-6600

JUDGES: *Telephone (Area code-509)*

Hon. Fred Van Sickle, Senior Judge
Seventh Floor, Thomas S. Foley U.S. Courthouse
P.O. Box 2209, Spokane, WA 99210. 458-5250
Judicial Assistant: Kellie Higginbotham. 458-5250
Courtroom Deputy: Virginia Reisenauer. 458-5250
Richland—When court in session. 943-8170
Yakima—When court in session. 573-6600

Hon. Robert H. Whaley, Senior Judge
Seventh Floor, Thomas S. Foley U.S. Courthouse
P.O. Box 283, Spokane, WA 99210. 458-5270
Judicial Assistant: Michelle Fox. 458-5270
Richland—When court in session. 943-8170
Yakima—When court in session. 573-6600

Hon. Edward F. Shea, Senior Judge
U.S. Courthouse and Federal Building
825 Jadwin, Suite 190
Richland, WA 99352. 943-8190
Judicial Assistant: Lisa Hernandez. 943-8190
Courtroom Deputy: Debbie Brasel. 943-8173
Spokane—When court in session. 458-3400
Yakima—When court in session. 573-6600

Hon. Lonny R. Suko, Senior Judge
25 South Third Street, 2nd Floor, Wm. O. Douglas Courthouse
P.O. Box 2726, Yakima, WA 98907. 573-6650
Judicial Assistant: Ginger Thompson. 573-6650
Courtroom Deputy: Laurie McClure 573-6600
Spokane—When court in session. 458-3400
Richland—When court in session. 943-8170

MAGISTRATE JUDGES: *Telephone (Area code-509)*

Hon. James P. Hutton
First Floor, Wm. O. Douglas Courthouse
P.O. Box 128, Yakima, WA 98907. 573-6670
Judicial Assistant: Kerrie Regimbal 573-6670
Courtroom Deputy: Pam Howard. 573-6600

Hon. John T. Rodgers
Seventh Floor, Thomas S. Foley U.S. Courthouse
P.O. Box 1493, Spokane, WA 99210. 458-5240
Judicial Assistant: Kathy Roberts. 458-5240
Courtroom Deputy: L. Stejskal... 458-5240

BANKRUPTCY COURT JUDGES:

Hon. Frank Kurtz, Chief Judge
Second Floor, Chinook Tower
402 E. Yakima Ave,
Suite 200, Yakima, WA 98901. 576-6122
Secretary: Chantelle Sliman. 576-6122

Hon. Frederick P. Corbit
Third Floor, U.S. Post Office Building
P.O. Box 2164, Spokane, WA 99210.. 458-5340
Secretary: Dee Sindlinger. 458-5340

Hon. Patricia Williams
Third Floor, U.S. Post Office Building
P.O. Box 2164, Spokane, WA 99210.. 458-5340
Secretary: Dee Sindlinger. 458-5340

Hon. John Rossmeissl, Recalled Judge
Second Floor, Chinook Tower
402 E. Yakima Ave.,
Suite 200, Yakima, WA 98901.. 576-6122

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DISTRICT COURT EXECUTIVE/CLERK OF COURT:

Sean F. McAvoy
Room 840, Thomas S. Foley U.S. Courthouse,
920 W. Riverside
P.O. Box 1493, Spokane, WA 99210. 458-3400
Richland—825 Jadwin, Suite 174,
Richland, WA 99352. 943-8170
Yakima—P.O. Box 2706, Yakima,
WA 98907-2706. 573-6600

BANKRUPTCY COURT EXECUTIVE/CLERK OF COURT:

Bev Benka
Third Floor, U.S. Post Office Building
P.O. Box 2164, Spokane, WA 99210. 458-5300
Yakima—402 E. Yakima Avenue., Ste 200,
Yakima, WA 98901. 576-6100

Court Reporters:

Kim Allen
P.O. Box 685, Richland, WA 99352 943-8175
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Lynette Walters
P.O. Box 845, Yakima, WA 98907. 573-6613

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PROBATION OFFICE:

Spokane Office:
Room 540, Thomas S. Foley U.S. Courthouse
P.O. Box 306, Spokane, WA 99210.. 742-6300

Yakima Office:
Room 326, U.S. Courthouse
P.O. Box 1791, Yakima, WA 98907. 574-5535

Richland Office:
170A U.S. Courthouse
P.O. Box 446, Richland, WA 99352. 943-8130

FEDERAL DEFENDERS OF EASTERN WASHINGTON:

Executive Director
10 North Post, Suite 700
Spokane, WA 99201. 624-7606

Yakima Office:
306 East Chestnut, Yakima, WA 98901. 248-8920

UNITED STATES ATTORNEY:

Spokane Office:
Third Floor, Thomas S. Foley U.S. Courthouse
P.O. Box 1494, Spokane, WA 99210.. 353-2767

Yakima Office:
402 E. Yakima Avenue, Suite 210, Yakima, WA 98901.. 454-4425

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UNITED STATES MARSHAL:

Spokane Office:
Second Floor, Thomas S. Foley U.S. Courthouse
P.O. Box 1463, Spokane, WA 99210. 368-3600

Yakima Office:
First Floor, 25 S. 3rd, Yakima, WA
P.O. Box 1204, Yakima, WA 98907. 575-5917

Richland Office:
825 Jadwin Avenue, Room G-69
P.O. Box 1026, Richland, WA 99352. 946-9423

LIBRARY,
UNITED STATES COURTS:
Librarian
Sixth Floor, Thomas S. Foley U.S. Courthouse
West 920 Riverside
Spokane, WA 99201. 353-3293

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INTRODUCTION

Local Rules for the United States District Court for the Eastern District of Washington have been adopted by the Court pursuant to FED. R. CIV. P. 83, FED. R. CRIM. P. 57, and 28 U.S.C. § 636(b)(4). These Local Rules shall be cited as "LR__" or "LMR__".

These rules shall govern all pending matters, except to the extent, in the opinion of the Court, their application in a case pending on July 1, 2013 would not be feasible or would work an injustice, in which event the procedure set forth in the former rules shall apply.

These rules govern all actions pending as of the effective date and supersede those rules promulgated on February 1, 2013. Counsel are required to be familiar with these Rules and the Federal Rules of Procedure, both civil and criminal, and amendments thereto.

Rules for practice in Bankruptcy Court have been separately published and are available from the Clerk of the Bankruptcy Court.

The Court, on its own motion, may amend these Local Rules and the Court may, on its own motion or the motion of any party, modify or dispense with any Local Rule in a particular case.

The term "party" as used in these rules shall include the attorney for such party unless the context of the rule excludes such meaning.

The Local Rules, Administrative Procedures for Electronic Case Filing and various forms are available on the Court's public web site, http://www.waed.uscourts.gov.

LR 3.1

COMMENCEMENT OF ACTION AND FILING OF PLEADINGS AND DOCUMENTS

(a) The filing of a complaint with the Clerk consistent with the Administrative Procedures for Electronic Case Filing shall constitute the commencement of the action in compliance with FED. R. CIV. P. 3.

(b) **Filing of Pleadings and Documents**

Effective October 4, 2004, the Clerk of Court will maintain an electronic case file for all civil and criminal cases, receive civil and criminal case filings by electronic transmission, and scan and upload paper filings in civil and criminal cases into the electronic file.

Effective April 5, 2005, unless otherwise permitted by the Administrative Procedures for Electronic Case Filing or unless otherwise authorized by the assigned judge, all documents submitted for filing on or after April 5, 2005 in all civil and criminal cases shall be filed electronically using the Electronic Filing System.

Parties proceeding pro se, the filing of social security cases, and a case filed under seal shall be governed by the Court's Administrative Procedures for Electronic Case Filing available through the Clerk's Office or at www.waed.uscourts.gov.

All paper pleadings and documents, filed pursuant to the Court's Administrative Procedures for Electronic Case Filing and these Local Rules, shall be deemed filed when (1) delivered to the Clerk's office in Spokane, Richland or Yakima, or (2) delivered to the Clerk or a deputy clerk in open court while Court is in session.

LR 3.2

RICO CASE STATEMENT

In cases which include claims under 18 U.S.C. § 1961 et seq., the Racketeer Influenced and Corrupt Organizations Act (RICO), the party asserting such claims shall, within 14 days of filing/serving the pleading containing such claims (or whichever is later), file and serve a RICO Case Statement as hereinafter provided.

This statement shall include the facts the plaintiff is relying upon to initiate this RICO complaint as a result of the "reasonable inquiry" required by FED. R. CIV. P. 11. In particular, this statement shall be in a form which uses the numbers and letters as set forth below, and shall state in detail and with specificity the following information:

(a) State whether the alleged unlawful conduct is in violation of 18 U.S.C. § 1962(a), (b), (c), and/or (d).

(b) List each defendant and state the alleged misconduct and basis of liability of each defendant.

(c) List the alleged wrongdoers, other than the defendants listed above, and state the alleged misconduct of each wrongdoer.

(d) List the alleged victims and state how each victim was allegedly injured.

(e) Describe in detail the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim. A description of the pattern of racketeering shall include the following information:

(1) List the alleged predicate acts and the specific statutes which were allegedly violated;

(2) Provide the dates of the predicate acts, the participants in the predicate acts, and a description of the facts surrounding the predicate acts;

(3) If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the "party must state with particularity the circumstances constituting fraud or mistake." FED. R. CIV. P. 9(b). Identify time, place and contents of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;

(4) State whether there has been a criminal conviction for violation of the predicate acts;

(5) State whether civil litigation has resulted in a judgment in regard to the predicate acts;

(6) Describe how the predicate acts form a "pattern of racketeering activity"; and

(7) State whether the alleged predicate acts relate to each other as part of a common plan. If so, describe in detail.

(f) Describe in detail the alleged enterprise for each RICO claim. A description of the enterprise shall include the following information:

(1) State the names of the individuals, partnerships, corporations, associations, or other legal entities, which allegedly constitute the enterprise;

(2) Describe the structure, purpose, function and course of conduct of the enterprise;

(3) State whether any defendants are employees, officers or directors of the alleged enterprise;

(4) State whether any defendants are associated with the alleged enterprise;

(5) State whether you are alleging that the defendants are individuals or entities separate from the alleged enterprise, or that the defendants are the enterprise itself, or members of the enterprise; and

(6) If any defendants are alleged to be the enterprise itself, or members of the enterprise, explain whether such defendants are perpetrators, passive instruments, or victims of the alleged racketeering activity.

(g) State and describe in detail whether you are alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity.

(h) Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual and daily activities of the enterprise, if at all.

(i) Describe what benefits, if any, the alleged enterprise receives from the alleged pattern of racketeering.

(j) Describe the effect of the activities of the enterprise on interstate or foreign commerce.

(k) If the complaint alleges a violation of 18 U.S.C. § 1962(a), provide the following information:

(1) State who received the income derived from the pattern of racketeering activity or through the collection of an unlawful debt; and

(2) Describe the use or investment of such income.

(l) If the complaint alleges a violation of 18 U.S.C. § 1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.

(m) If the complaint alleges a violation of 18 U.S.C. § 1962(c), provide the following information:

(1) State who is employed by or associated with the enterprise.

(2) State whether the same entity is both the liable "person" and the "enterprise" under § 1962(c).

(n) If the complaint alleges a violation of 18 U.S.C. § 1962(d), describe the detail of the alleged conspiracy.

(o) Describe the alleged injury to business or property.

(p) Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.

(q) List the damages sustained by reason of the violation of § 1962, indicating the amount for which each defendant is allegedly liable.

(r) List all other federal causes of action, if any, and provide the relevant statute numbers.

(s) List all pendent state claims, if any.

(t) Provide any additional information that you feel would be helpful to the Court in processing your RICO claims.

(u) If you cannot presently provide certain information requested above due to lack of discovery, set forth with specificity:

(1) the fact(s) presently unknown but which you expect to be able to prove;

(2) the nature of discovery you plan to undertake to develop such facts;

(3) of whom you intend to take discovery; and

(4) when you intend to commence and/or complete such discovery.

The Clerk shall refer all newly filed actions which contain a RICO claim to the assigned judge for review as soon as practicable after commencement of the action.

LR 4.1

SERVICE OF PROCESS

The United States Marshal's office will no longer serve civil process except on behalf of the United States or pursuant to a specific Order of the Court. It shall be the responsibility of counsel, or that of individual litigants acting without counsel, to cause proof of service of summons to be filed with the Clerk promptly after service has been accomplished.

Counsel should become familiar with the waiver of service provisions of FED. R. CIV. P. 4(d).

LR 5.1

SERVICE AND FILING OF PLEADINGS AND DOCUMENTS

The Court will accept for filing documents submitted, signed or verified by electronic means that comply with Administrative Procedures for Electronic Case Filing established by the Court.

The "Notice of Electronic Filing" that is automatically generated by the Court's Electronic Filing System constitutes service of the filed document on filing users. Parties who are not filing users must be served with a paper copy of any pleading or other document filed electronically in accordance with the Federal Rules and the Local Rules of this Court.

(a) **Service on Judge**

The Court's electronic filing system provides automatic notice of all filings to the judge. For documents, including exhibits, over 100 pages in length, a courtesy paper copy for the judge must be filed with the Clerk. The courtesy paper copy shall be clearly marked, "Judge's Courtesy Copy of Electronic Filing," and must be three-hole punched and tabbed (if applicable).

(b) **Proof of Service**

There shall be attached to each document, pleading or notice required to be served upon opposing counsel or parties, an affidavit evidencing the service of the document, pleading or notice. Proof of service is still required when a party files a document, pleading or notice electronically. The affidavit must state that service was accomplished through the Notice of Electronic Filing for parties and counsel who are filing users and indicating how service was accomplished on any party or counsel who is not an electronic filing user. Sample language is included in the Court's Administrative Procedures for Electronic Case Filing. Such an affidavit, other than the affidavit of service of the summons and complaint, shall only be filed as an attachment to the document, pleading or notice being filed. The affidavit(s) of service of summons and complaint shall be separately filed.

The affidavit of service, attached to document or pleading, may be by an affidavit-of-service stamp attached to a document or pleading or by way of a written affidavit attached to the document or pleading being filed.

(c) **Document Facsimile Filing**

Unless otherwise authorized by the Court, effective November 13, 2004, document facsimiles will no longer be accepted for filing by the Clerk. Pleadings and documents can be electronically filed. Counsel should become familiar with the Court's Administrative Procedures for Electronic Case Filing. The procedures are available at the Clerk's Office or on the Court's website, www.waed.uscourts.gov.

LR 7.1

MOTION PRACTICE

(a) **Motions**

(1) All motions, unless made during a hearing or trial, shall be in writing and be filed within the time period set by the Local Rules or order of the Court, and sufficiently in advance of trial to avoid any trial delay.

(2) The moving party shall file and serve a motion and any supporting materials. The motion serves as the memorandum and must set forth supporting factual assertions and legal authority. The motion also serves as the notice of hearing as prescribed in LR 7.1(h).

(3) A "dispositive motion" is a motion requesting: summary judgment, judgment on the pleadings, dismissal, permanent injunctive relief; or to suppress evidence in a criminal case.

(Note: Summary Judgment is also discussed in LR 56.1.)

(b) **Responsive Memorandum**

(1) The response memorandum ("response") must set forth supporting factual assertions and legal authority. The time periods set forth in this section include the additional 3-day period allowed under Fed. R. Civ. P. 6(d) and Fed. R. Crim. P. 45(c) and, therefore, apply regardless of the method of service.

(2) Deadline in civil cases: Unless the court orders otherwise, the response shall be filed by:

(A) a pro se litigant: within 1) 21 days after the mailing of the nondispositive motion as noted on the certificate of mailing, or 2) 30 days after the mailing of the dispositive motion as noted on the certificate of mailing. If the litigant is registered for Electronic Case Filing (ECF), the filing of the motion shall start the applicable time period; and

(B) counsel: within 1) 14 days after the filing of a nondispositive motion, or 2) 21 days after the filing of a dispositive motion.

(3) Deadline in criminal cases: The response shall be filed within 7 days after the filing of the motion.

(c) **Reply Memorandum**

(1) The moving party may file a reply memorandum ("reply"). The time periods set forth in this section include the additional 3-day period allowed under Fed. R. Civ. P. 6(d) and Fed. R. Crim. P. 45(c) and, therefore, apply regardless of the method of service.

(2) Deadline in civil cases: Unless the court orders otherwise, any reply shall be filed by:

(A) a pro se litigant: within 21 days after the date the response was 1) mailed as noted on the certificate of mailing, or 2) filed, if the litigant is registered for Electronic Case Filing (ECF); and

(B) counsel: within 1) 7 days after the filing of the response to a non-dispositive motion or 2) 14 days after the filing of the response to a dispositive motion.

(3) Deadline in criminal cases: Any reply shall be filed within 7 days after the filing of the response.

(d) **Failure to Comply with the Rules of Motion Practice**

The failure to comply with the requirements of LR 7.1(a) or (b) may be deemed consent to the entry of an Order adverse to the party who violates these rules.

(e) **Length of Memoranda**

(1) Dispositive motions: A motion or response relating to a dispositive motion shall not exceed 20 pages. The reply relating to a dispositive motion shall not exceed 10 pages.

(2) Nondispositive motions: Memoranda relating to a nondispositive motion shall not exceed 10 pages.

(3) For the purpose of calculating pages the following are excluded: the name, mailing address and telephone number of the attorney or firm submitting the pleading, the case caption, table of contents, signatures, certificates of service, copies of decisions required by LR 7.1(f), LR 56.1 Statements of Material Fact, and exhibits.

(4) These page limits may only be exceeded by obtaining prior approval of the Court. A motion to exceed page limits must demonstrate good cause.

(f) **Citation of Authorities**

(1) Citations to cases in briefs shall include volume, page, district, court or circuit, and year as follows:

State cases: cite official State reports, regional reporters, or if not yet published therein, a publicly accessible electronic database.

Federal cases: For decisions of the United States Supreme Court, cite either the United States Reports or Supreme Court Reporter, or if not yet published therein, a publicly accessible electronic database. For all other federal cases, cite Federal Reporter, Federal Supplement, Federal Rules Decisions, Bankruptcy Reporter, or a publicly accessible electronic database.

(2) Unpublished decisions may be cited when relevant under the doctrines of law of the case, res judicata, collateral estoppel, and for factual or persuasive, but not binding, precedential value.

(3) Photocopies of unpublished cases which are not available on a publicly accessible electronic database shall be filed as an attachment.

(g) **Factual Assertions**

Factual assertions contained in memoranda must be supported by evidence, such as a declaration, affidavit, or discovery response.

(h) **Hearing on Motions**

(1) Hearing: Any party filing a motion shall insert the date, time, and place (or phone number if by telephone) for the hearing in the motion's caption.

(sample caption - motion with telephonic oral argument)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

[Name of Plaintiff], Plaintiff, v. [Name of Defendant], Defendant.	NO. 12-CV-1234 -JLQ MOTION TO DISMISS 11/17/2012 With Oral Argument: 10:30 a.m. Ph: 509-376-1330

(sample caption - motion without oral argument)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

[Name of Plaintiff], Plaintiff, v. [Name of Defendant], Defendant.	NO. 12-CV-1234 -JLQ MOTION TO DISMISS 11/17/2012 Without Oral Argument

(2) Time Requirements:

(A) Nondispositive motions: the date of the hearing must be at least 30 days after the motion's filing.

(B) Dispositive motions: the date of the hearing must be at least 50 days after the motion's filing.

(C) These time requirements may only be altered by the Court. To seek an expedited hearing on a time sensitive matter, the moving party must file a motion to expedite which: 1) demonstrates good cause; 2) states the position of the opposing pro se party or counsel; and 3) sets a date of hearing that is not less than 7 days after the motion's filing. Should the motion to expedite require more immediate judicial attention, the motion

shall establish the necessity for an immediate hearing and the filing party shall notify chambers staff of the motion.

(3) Obtaining a Hearing Date, Time, and Place:

(A) Without oral argument: A motion to be heard without oral argument can be set on any weekday on or after the date calculated in LR 7.1(h)(2). (*See ECF Administrative Procedures re time/place for motions without oral argument.*)

(B) With oral argument:

(i) To obtain an oral argument hearing date (on or after the date calculated in LR 7.1(h)(2)), time, and place, the pro se party or counsel shall 1) contact the opposing party or counsel to develop a list of mutually-agreeable hearing dates, times, and places, and then 2) contact the presiding judge's courtroom deputy to determine an available hearing date, time, and place. Telephonic argument may be requested, but the pro se party or counsel should consult the presiding judge's courtroom deputy to determine the telephonic argument policy.

(ii) If the moving party does not elect oral argument, the opposing party may elect oral argument by inserting the obtained hearing date, time, and place in the response's caption (with a notation that the previously-without-oral-argument hearing is now with oral argument).

(iii) Notwithstanding the foregoing procedure, the Court may decide that oral argument is not warranted and proceed to determine any motion without oral argument.

(iv) Unless specially ordered, not more than fifteen (15) minutes shall be allowed for each party for oral argument on any motion.

(C) If oral argument is not elected, oral argument is waived absent a motion and good cause shown.

(i) **Status of Pending Motions**

If the parties have not received an Order within 30 days after the motion has been heard, the parties may contact the courtroom deputy to inquire as to the status.

LR 9.1

STANDARD FORMS FOR HABEAS CORPUS PETITIONS AND MOTIONS

Petitions for habeas corpus shall be on forms furnished by the Clerk. Pursuant to agreement between the Western and Eastern Districts of Washington, all cases in which habeas corpus relief challenging a conviction or sentence is sought shall be processed in the district where the conviction took place regardless of where the prisoner is incarcerated.

LR 9.2

ADMIRALTY RULES

The Admiralty Rules heretofore adopted and promulgated by the United States District Court for the Western District of Washington, and all additions thereto and amendments thereof, are hereby by reference adopted as and shall hereafter be the Admiralty Rules of the Eastern District of Washington. The Clerk of the United States District Court for the Eastern District of Washington is directed to maintain at all times three copies or more of the latest edition of such Admiralty Rules for reference of attorneys in this district. If by their terms they are clearly inapplicable, they will be supplemented by subsections of this rule and/or orders of this Court.

(a) **Publication of Notices**

Publication of notices shall be once a week for three consecutive weeks in a newspaper of general circulation in the district where the property is seized or located.

LR 10.1

GENERAL FORMAT OF DOCUMENTS PRESENTED FOR FILING

(a) All documents presented for filing shall be in English and prepared letter size (8½" x 11"). Without prior approval of the Court, all attachments shall also be no larger than 8 ½" x 11" letter size.

(1) Pre-punching: all paper documents presented for filing shall be pre-punched with two normal-size holes (approximately ¼" diameter), centered 2¾" apart, ½" to ⅝" from the top edge of the document. For documents, including exhibits, over 100 pages in length, a courtesy paper copy for the judge must be filed with the Clerk. The courtesy copy shall be clearly marked, "Judge's Courtesy Copy of Electronic Filing," and must be three-hole punched and tabbed (if applicable).

(2) All papers submitted must be of good quality on which line numbers appear at the left margin. The material thereon shall be on one side of the paper only and typed, printed or prepared by a clearly legible duplicating process, and shall be double-spaced. Quoted material may be single-spaced, however footnotes shall be double-spaced. All typed and printed matter must appear in either a proportionately spaced typeface of 14 points or more or a monospaced typeface of no more than 10.5 characters per inch. A proportionately spaced typeface has characters with different widths. A monospaced typeface has characters with the same advanced width. Text shall be in roman (upright letters), non-script type. No pleading, document, or brief may have an average of more than 280 words per page, including footnotes and quotations. The word count does not include addenda containing statutes, rules, regulations, etc.

(3) On the first page of each pleading or similar document the title of the Court shall appear on or below the fifth line. All pleadings shall be signed as required by FED. R. CIV. P. 11. An electronically filed pleading or other document requiring an attorney's signature shall be signed in the following manner: "s/(attorney name)." Names shall be typed underneath all signature lines.

(4) Citations to documents in the record, including declarations, exhibits, and any documents previously filed, shall include a citation to the electronic case filing (ECF) record number and the page number within that ECF record, and shall be in the following format, "ECF No. __ at __." (Example: ECF No. 24 at 2.)

(b) In the space to the right of the center of the first page, opposite the caption of the case, there shall be placed:

(1) the case number;

(2) the nature of the document, such as complaint, answer, motion, order, affidavit, and so forth; and the name and status of the party on whose behalf the document is filed;

(3) the words "Class Action" when class action relief is requested;

(4) the words "Demand for Jury Trial" or its equivalent when a party demands a jury.

(c) The first page of each pleading or other paper (except instructions) shall contain the name, mailing address and telephone number of the attorney or firm submitting the paper on the left side above line five.

(d) At the left side of the bottom of each paper of all papers (other than instructions) an abbreviated name of the paper should be repeated, followed by the page number.

(e) All documents, including any exhibits, shall be sequentially paginated in their entirety, with the page number appearing at the bottom of each page.

(f) On a written motion or stipulation, the form of proposed order granting the motion or approving the stipulation shall be submitted separately.

(g) Any document requiring the signature of the Court shall provide as follows:

"Dated this ___ day of _____, 20__.

_____
United States District Judge"

and the signature page shall include a portion of the text of the document.

(h) Every civil complaint shall be accompanied by a Civil Cover Sheet (JS-44); and shall also be accompanied by a form of summons prepared by counsel for issuance by the Clerk with sufficient copies for service. These forms may be obtained from the office of the Clerk or on the Court's web site at www.waed.uscourts.gov.

(i) **Prisoner Civil Rights Actions**

Actions by inmates of a penal or treatment institution seeking relief for alleged violations of civil rights shall be on a form of complaint which will be furnished by the Clerk.

LR 16.1

PRETRIAL PROCEDURE

Unless otherwise ordered by the Court in a particular case, the following shall be the pretrial procedure in civil cases:

(a) **Court's Scheduling Conference**

Not later than 90 days after an action is commenced, the Clerk will send each attorney of record a Notice of Court's Scheduling Conference setting forth a time at which such conference will be held. Thereafter, the attorneys for the parties shall promptly confer with one another and discuss all matters referenced in the Notice and in FED. R. CIV. P. 16(c) and 26(f), and file written reports, jointly or separately, setting forth the results of the attorney conference. The written report, including the discovery plan, shall be filed within 14 days after the attorney conference, but no later than 14 days before the Court's scheduling conference.

(b) **Pretrial Order**

At least 14 days before the scheduled final pretrial conference (FED. R. CIV. P. 16(d)), all counsel and pro se parties shall confer in a good faith attempt to formulate a pretrial order (FED. R. CIV. P. 16(e)), to be filed as a stipulated order no later than 7 days before the conference. The Court may cancel a conference for which a stipulated order has been filed.

Should the parties fail to agree on a pretrial order, each shall prepare a proposed pretrial order, to be served and submitted to the Clerk no later than 7 days before the conference.

Title of Court and Cause No.

PRETRIAL ORDER

A pretrial conference was held in the above entitled cause at _____, Washington on _____, 20__ with Judge _____ presiding. Plaintiff was represented by _____ and defendant by _____ their respective attorneys of record. The following pretrial order has been formulated and settled as follows:

NATURE OF PROCEEDINGS AND
STATEMENT OF JURISDICTION
(insert statement)

The following facts are agreed upon by the parties and require no proof:

1.

2.

etc.

PLAINTIFF'S CONTENTIONS

Plaintiff's contentions as to disputed issues are:

1.

2.

etc.

DEFENDANT'S CONTENTIONS

Defendant's contentions as to disputed issues are:

1.

2.

etc.

ISSUES OF FACT

The following are the issues of fact to be determined by trial:

1.

2.

etc.

ISSUES OF LAW

The following are the issues of law to be determined by the Court:

1.

2.

etc.

EXHIBITS

The following exhibits may be received in evidence, if otherwise admissible, without further authentication, it being admitted that each is what it purports to be:

Plaintiff's Exhibits:

1.

2.

etc.

Defendant's Exhibits:

1.

2.

etc.

The following plaintiff's exhibits are objected to by defendant:

1.

2.

etc.

The following defendant's exhibits are objected to by plaintiff:

1.

2.

etc.

Other than for impeachment purposes, the only exhibits admitted at trial will be exhibits identified herein or on a supplemental list filed at least 14 days before trial, or at such earlier date as may have been set by the court, which supplemental list shall bear counsel's certificate that opposing counsel has had an opportunity to examine the exhibits.

Objections to exhibits, except as to relevancy, must be heard prior to trial.

WITNESSES

The following witnesses may be called by plaintiff (If expert, give field of expertise):

1.

2.

etc.

The following witnesses may be called by defendant (If expert, give field of expertise):

1.

2.

etc.

Other than for rebuttal purposes, no witnesses may be called unless listed above.

RELIEF SOUGHT

(INSERT)

TRIAL

The parties estimate ___ days trial time. The parties stipulate and agree that (check appropriate box):

___ An alternate juror is recommended.

___ If a juror is excused during trial for good cause the parties stipulate to a verdict by five jurors.

___ No stipulation reached as to above.

Unless otherwise specified in a scheduling order, proposed instructions and trial memoranda shall be filed and served at least 7 days prior to commencement of trial.

ACTION BY THE COURT

The Court has ruled that (any ruling that may have been made by the Court)

1.

2.

etc.

It is hereby ORDERED that the foregoing constitutes the pretrial order in the case and that upon the filing hereof all pleadings pass out of the case and are superseded by this Order. This Order may be amended by consent of the parties and approval by the Court or by the Court to prevent manifest injustice.

DATED THIS day of , 20

_____

United States District Judge

LR 16.2

ALTERNATIVE DISPUTE RESOLUTION

(a) **Preliminary**

Through the passage of the "Alternative Dispute Resolution Act of 1998", 28 U.S.C. §§ 651, et seq., Congress has encouraged federal courts to review and strengthen their alternative dispute resolution (ADR) programs. Such programs may provide greater satisfaction to the parties, provide innovative methods of resolving disputes and increase the efficiency in achieving settlements. Moreover, the adoption of Congressional requirements for the priority scheduling of criminal trials, have placed substantially greater pressures on litigants, counsel, and the Court.

The parties in civil actions shall consider alternative dispute resolution and be prepared to discuss ADR at the time of the first scheduling conference. Forms of ADR include but are not limited to mediation, summary jury trials, early neutral evaluation, arbitration and mini trials. The parties may plan to privately select and reimburse third party neutrals or request a court-annexed program. (See LR 16.2(c) below.)

(b) **Settlement Negotiations**

The Court encourages the attorneys for all parties to the action, except nominal parties and stakeholders, to meet at least once and engage in a good faith attempt to negotiate a settlement of the action.

(c) **Court-Annexed Programs**

In selected cases, the Court may refer matters to magistrate judges or volunteer third party neutrals.

(1) Matters referred for mediation/settlement conferences by the District Court judges to the magistrate judges in this district shall be governed by the directives in the magistrate judge's scheduling order.

(2) Matters referred to mediators, special masters, or arbitrators shall be governed by this rule.

(a) Register of Third Party Neutrals

(1) The judges of the district shall establish and maintain a register of qualified attorneys who have volunteered to serve, without compensation, as mediators, special masters and arbitrators in civil cases in this court. Under appropriate circumstances, it may be necessary for the parties to provide payment, at usual and customary levels as determined by the Court, for the services of an attorney designated under this rule. The attorneys so registered shall be selected by the judges of the district from lists of qualified attorneys at law, who are members of the bar of this court, and who are recommended to the judges by the Federal Bar Association of the Eastern and Western Districts of Washington. The Federal Bar Association shall request the county bar associations within the geographical boundaries of the district to cooperate with the Association in obtaining well-qualified volunteers for the register.

(2) *Minimum Qualifications*

To qualify for service as a mediator, special master or arbitrator under this rule, an attorney shall have the following minimum qualifications:

(a) Have been admitted to practice in a state court for at least 5 years; and

(b) Be a member of the bar of the United States District Court for the Eastern or Western District of Washington.

(3) *Disqualification*

No person may serve as a neutral in an ADR proceeding under this rule in violation of the standards set forth in 28 U.S.C. § 455 or any applicable standard of professional responsibility or rule of professional conduct. Within 7 days of designation as a neutral under this rule, the designee and parties shall thoroughly assess whether a conflict of interest or other basis for disqualification exists. If recusal is deemed appropriate, the neutral shall submit in camera a letter to the parties and court stating the fact of recusal, and another neutral will be selected.

(4) *Immunity of Neutrals*

All persons serving as neutrals under this local rule are deemed to be performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.

(5) *Criteria for Designations*

In designating a mediator, a special master or an arbitrator, the judge shall take into consideration the nature of the action and the nature of the practice of the attorneys on the register. When feasible, the judge shall designate an attorney who has had substantial experience in the type of action in which the attorney is to act as mediator, special master or arbitrator.

(b) Mediation

(1) *Definition*

Mediation is a process whereby an impartial third party (the mediator) facilitates communication between negotiating parties attempting to reach an agreed settlement of their dispute. When appropriate the mediator may also offer an evaluation of the case and/or recommend a settlement. Whether a settlement results from a mediation is within the sole control of the parties.

(2) *Selection of Mediator*

The Court may consult with the parties and shall designate a mediator from the register, or if necessary, within the discretion of the Court, from outside the register and shall send notice of that designation to the mediator and to all attorneys of record in the action.

(3) *Mediation Procedure*

A. *Copy of Pretrial Order or Pleadings*

Upon selection of a mediator the parties shall forthwith provide the mediator with a copy of the pretrial order, if one has been lodged in the cause. If a pretrial order has not been lodged, they shall provide the mediator with copies of their then effective pleadings.

B. *Time and Place*

The mediator shall fix a time and place for the mediation conference, and all adjourned sessions, that is reasonably convenient for the parties and shall give them at least 14 days written notice of the initial conference. The conference shall be set to begin as soon as practicable after submission of the papers referenced in the preceding paragraph, but in no event more than two months after the mediator has been notified of his/her selection.

C. *Memoranda*

(1) Each party shall provide the mediator with a memorandum presenting in concise form his/her contentions relative to both liability and damages. This memorandum shall not exceed 10 pages in length. Copies of this memorandum shall be served upon all other parties at least 7 days before the mediation conference.

(2) In addition, each party, at least 7 days before the mediation conference, shall submit, to the mediator only, an additional memorandum on a confidential basis, and not served on the other parties, indicating strengths and weaknesses in that party's case and the range in which that party proposes settlement. Memoranda so submitted shall be treated with confidentiality by the mediator, and shall be labeled "Confidential".

D. *Attendance and Preparation Required*

The attorney who is primarily responsible for each party's case shall personally attend the mediation conference and any adjourned sessions of that conference. The attorney for each party shall come prepared to discuss the following matters in detail and in good faith.

1. All liability issues.
2. All damage issues.
3. The position of his/her client relative to settlement.

E. *Parties to be in Attendance*

Unless previously excused by the mediator for good cause, the parties shall personally attend. The mediator shall decide when the parties are to be present in the conference room. Parties whose defense is provided by a liability insurance company need not personally attend said mediation conference, if previously excused by the mediator, but a representative of the insurer of said parties shall attend and shall be empowered to bind the insurer to a settlement if a settlement can be reached within the limits set by that insurer.

F. *Failure to Attend*

Willful failure to attend the mediation conference, unless excused by the mediator, shall be reported to the Court by the mediator and may result in the imposition of such sanctions as the Court may find appropriate.

G. *Time Requirements*

Any of the time requirements of this rule may be waived or extended by the Court, upon application, and a showing of good cause.

(4) *Proceedings Confidential*

All proceedings of the mediation conference, including any statement made by any party, attorney or other participant, shall, in all respects, be confidential and may be privileged and not reported, recorded, placed in evidence, made known to the trial court or jury, or construed for any purpose as an admission against interest. No party shall be bound by anything done or said at the conference unless a settlement is reached, in which event the agreement upon a settlement shall be reduced to writing, or otherwise placed on the record, and shall be binding upon all parties to that agreement.

(5) *Notice to Clients of Mediator's Suggestions*

If the mediator makes any oral or written suggestion as to the advisability of a change in any party's position with respect to settlement, the attorney for that party shall promptly transmit that suggestion to his client.

The mediator shall have no obligation to make any written comments or recommendations but may in his or her discretion provide the attorneys for the parties with a written settlement recommendation memorandum. No copy of such memorandum shall be filed with the Clerk or made available in whole or in part, directly or indirectly, either to the Court or to the jury.

The attorneys for the parties shall forward copies of such memorandum to their clients and shall advise them of the fact that the mediator is a qualified attorney who has volunteered to act as an impartial mediator without compensation, if that is the case, in an attempt to help the parties reach agreement and avoid the time, expense and uncertainty of trial.

The mediator shall have the duty and authority to establish the time schedule for mediation activities, including a schedule for the parties to act upon the mediator's recommendation having in mind that the purpose of this order is prompt dispute resolution.

(6) *Consideration of Special Master or Arbitrator*

If the mediator is unable to mediate a settlement, the mediator shall explore with counsel the desirability of the appointment of a special master or an arbitrator under this rule and whether such an

appointment might lead to the resolution of all or any of the matters in controversy. With the consent of counsel the mediator shall convey in writing to the judge to whom the matter has been assigned, the conclusions of counsel and of the mediator relative to the possible narrowing of issues and relative to the appointment of a special master or an arbitrator.

(7) *Notice of Compliance*

If no settlement results from the mediation, the mediator shall promptly file with the Clerk a certificate showing that there has been compliance with the mediation requirements of this rule but that no settlement has been reached.

(c) Special Mediation Master

(1) *Appointment of Special Mediation Master*

If all of the parties to an action stipulate in writing to the reference of the action to a special mediation master and agree upon a particular attorney as special mediation master, and if the special master and the Court consent to the assignment, an order of reference shall be entered. If the parties cannot agree upon the selection of a special mediation master but stipulate in writing that there be a reference to a special mediation master, the Court shall promptly designate a special mediation master from the register, or as otherwise determined by the Court, and shall send notice of that designation to the special mediation master and to all attorneys of record in the action.

(2) *Powers and Duties*

The powers and duties of the special master and the effect of his/her report shall be as set forth in FED. R. CIV. P.53 except as the same may be modified or limited by agreement of the parties and incorporated in the order of reference.

(3) *Confidentiality of Proceedings*

The Court, in the order of reference, shall specify the extent to which the proceeding shall be confidential.

(4) *Time and Place*

The special master shall fix a time and place for hearing, and all adjourned hearings, which is reasonably convenient for the parties and shall give them at least 14 days' written notice of the initial hearing.

(5) *Discovery*

If discovery has not been completed, it may continue during the pendency of the matter before the special master, unless the special master concludes that the matters require no further discovery and discovery would impede the exercise of the powers and duties under this rule, in which event he or she may request an order from the Court to stay discovery.

(6) *Other Special Master Appointments*

This rule shall not limit the authority of the Court to appoint compensated special masters to supervise discovery or for other purposes, under the provisions of FED. R. CIV. P. 53.

(d) Arbitration

(1) *Definition*

Arbitration is a process whereby an impartial third party (the arbitrator) hears and considers the evidence and testimony of the disputants and others with relevant knowledge and issues a decision on the merits of the dispute. The arbitrator makes an award on the issue(s) presented for decision. The arbitrator's award is binding or non-binding as the parties may agree in writing.

(2) *Agreement for Arbitration*

If all parties agree to submit the action to arbitration under this rule, they shall reduce their agreement to writing and file the same with the Court. Pursuant to the ADR Act of 1998, 28 U.S.C. § 654(a), the Court may not refer to arbitration any action based on a violation of constitutional rights, where jurisdiction is based in whole or part on 28 U.S.C. § 1343, or where relief sought consists of money damages in an amount greater than $150,000.

The agreement to arbitrate shall state a) whether the decision to arbitrate is freely and knowingly made, b) the extent to which the proceedings shall be confidential and c) whether the arbitration award is to be final and conclusive with trial de novo waived, or whether a party dissatisfied with the award may obtain a trial de novo upon timely application to the Court. No party may be prejudiced for refusing to agree to arbitration.

(3) Appointment of Arbitrator and Order Directing Arbitration

The parties may agree on the appointment of a particular attorney from the register as arbitrator, and if that attorney and the Court consent to the assignment, an order directing arbitration and appointing that arbitrator shall be entered. The parties may stipulate to arbitration under this rule without agreeing upon an arbitrator, in which event the Court shall designate an arbitrator from the register, or as otherwise determined by the Court, and shall send notice of that designation to the parties, together with its order directing arbitration. The order to arbitrate shall incorporate the term set forth in the agreement to arbitrate.

(4) Oath or Affirmation

The arbitrator shall take the oath or affirmation prescribed by 28 U.S.C. § 453.

(5) Pleading and Discovery

The arbitration shall be conducted on the basis of the order to arbitrate, the pleadings before the Court (or the pretrial order if filed) and the pretrial discovery had before the Court. Further proceedings before the Court shall be stayed during the pendency of the arbitration; provided, however, that the arbitrator may authorize additional discovery and may order hearing briefs and memoranda filed with him/her.

(6) Time and Place of Hearing

The arbitrator shall designate a place and time for hearing the case on its merits as early as possible consistent with the parties' needs to complete their preparation for the hearing.

(7) Conduct of Hearing

All testimony shall be given under oath or affirmation administered by the arbitrator. In receiving evidence, the arbitrator shall apply the Federal Rules of Evidence. Attendance of witnesses and production of documents may be compelled under FED. R. CIV. P. 45. The arbitrator may make reasonable rules and issue orders necessary for the fair and efficient conduct of the hearing and prehearing proceedings. Failure, without good cause, to comply with the arbitrator's rules and orders shall be reported to the Court for its consideration of imposition of sanctions.

(8) Transcript or Recording

A party may cause a transcript or recording to be made of the proceedings at the party's expense but shall, at the request of the opposing party, make a copy available to any other party upon the payment by that party of the cost of this copy. In the absence of agreement of the

parties, or applicable rule of law, no transcript of the proceedings shall be admissible in evidence at a later de novo trial except for purposes of impeachment.

(9) Ex Parte Communication

There shall be no ex parte communication between the arbitrator and any counsel or party on any matter touching the action except for purposes of scheduling or continuing the hearing.

(10) Filing of Award

The arbitrator shall file the award with the Clerk's Office with reasonable promptness following the closing of the hearing. Pursuant to 28 U.S.C. § 657(b), the award shall not be made known to any judge who may be assigned to the case for a trial de novo, until the time to request a trial de novo has passed. The Clerk shall transmit copies of the award to all parties.

(11) Form of Award

The award shall state clearly and concisely the name or names of the prevailing party or parties and the party or parties against which it is rendered, and the precise amount of money and other relief, if any, which is awarded. Unless otherwise required by the agreement to arbitrate, the award need not disclose the facts or reasons in support of the award. The award shall be in writing and signed by the arbitrator.

(12) Vacation, Modification or Correction of Award

A. Within 30 days of the filing of the award, any party may move the Court to vacate and set aside the award on one or more of the grounds set forth in 9 U.S.C. § 10, or may move to modify or correct the award on one or more of the grounds set forth in 9 U.S.C. § 11. Thereafter, the Court shall hear and determine the issues raised, and enter an order in conformity.

B. After said 30-day period, and any extended time required for hearing and determining the issues presented by motion filed under (12)(A) above, the Court may direct the entry of judgment on the award under FED. R. CIV. P. 58. The judgment shall have the same force and effect as that of any other judgment of the Court in a civil action.

(13) Trial De Novo

A. Time For Demand

Notwithstanding any other provisions of this rule, if the parties in the agreement to arbitrate did not agree to waive trial de novo, either party may, within 30 days of the filing of the award, serve and file a

written demand for trial de novo and thereafter the action shall proceed as a trial de novo before the judge to whom the case has been assigned.

B. Limitation of Evidence

At a trial de novo, unless the parties have otherwise stipulated, no evidence of or concerning the arbitration may be received into evidence except that statements made by a witness at the arbitration hearing may be used for impeachment only.

C. Costs and Attorney's Fees

If trial de novo is not had, costs and attorney's fees will not be assessed against any party unless authorized by contract or specific statute and itemized and included in the arbitration award. If trial de novo is had, costs and attorney's fees for the arbitration proceeding may be assessed as in any other proceeding before the Court; provided, however, that, if the party who requested the trial de novo fails to obtain a judgment which is more favorable to that party than was the arbitration award, a reasonable attorney's fee for the trial de novo may be assessed against that party by the Court.

(14) Other Agreements for Arbitration

Notwithstanding the provisions of this rule, the parties to any action or proceeding may stipulate to its referral to arbitration upon such terms as they may agree to, subject to approval of the Court. In the event of such referral, the applicable provisions of state and federal law governing voluntary arbitration shall control.

LR 17.1

CLAIMS OF MINORS AND INCOMPETENTS AND DISPOSITION OF FUNDS

(a) **Representation**

At the time of the commencement of any action involving a beneficial interest or claim of a minor or incompetent, the plaintiff shall petition the Court and obtain appointment by the Court of an independent guardian ad litem to represent the interest of the ward. The guardian ad litem shall be an attorney admitted to practice before this Court. The guardian ad litem shall be independently appointed by the Court. At the time of the commencement of the action, counsel for the plaintiff shall submit to the Court a list of not less than three attorneys and their qualifications, who are willing to serve as guardian ad litem. Upon a showing of good cause, the Court may dispense with the appointment of a guardian ad litem.

(b) **Procedure for Settlement or Compromise**

Counsel for the minor/incompetent shall consult with the guardian ad litem prior to proposing or responding to any settlement offer. No claims of a ward shall be settled or compromised without the prior approval of the Court. Prior to the presentment to the court of any proposed settlement, the guardian ad litem shall independently investigate the proposed settlement, and shall file a written report with the court as to its adequacy, including an analysis of costs and fees.

(c) **Hearing and Calculation of Fee**

At the time the petition for approval of the settlement is heard, the allowance and taxation of all fees, costs, and other charges incident to the settlement of the minor's claim shall be considered and disposed of by the Court in its discretion.

In the case of a structured settlement or annuity, the fee shall be based on the actual cost of the annuity, the cost of which may be disclosed in camera upon request.

(d) **Deposit in Court and Disbursements**

If approved by the Court, funds recovered for the benefit of a minor or incompetent person shall be invested or disbursed in such a manner as the Court deems proper for the best interests of the minor or incompetent person. Unless otherwise ordered all funds recovered on behalf of a minor or incompetent, either

through settlement or judgment, shall be paid into the registry of the Court. Payment out of such funds for attorney's fees, costs or other allowable expenses shall be paid only upon approval of the Court.

(e) **Control of Remaining Funds**

(1) $20,000 or Less. If the money or the value of other property remaining is $20,000 or less and there is no general guardian of the ward, the Court shall require that (A) the money be deposited in a bank or trust company or be invested in an account in an insured financial institution for the benefit of the ward subject to withdrawal only upon the order of the Court as part of the original proceeding, or (B) a general guardian be appointed and the money or other property be paid or delivered to such guardian.

(2) Over $20,000. If the money or the value of other property remaining exceeds $20,000, and there is no general guardian of the ward, the Court in the order or judgment shall require that a general guardian be appointed by a court of competent jurisdiction.

(f) **Deposit of Minor's Funds**

Checks for funds for the benefit of a minor may be made out by the Clerk jointly to the depositary bank, trust company, or insured financial institution and the independent attorney for the minor, guardian ad litem or general guardian and deposit shall be made in a blocked account for the minor with provision that withdrawals cannot be made without court order. A deposit receipt to that effect must forthwith be filed with the Court by the attorney or guardian.

LR 23.1

CERTIFICATION OF CLASS ACTION

FED. R. CIV. P. 23(c)(1)(A) requires that if a matter is to be pursued as a class action, that determination shall be made by the court "at an early practicable time."

In order that the court may set an appropriate cut-off date for the filing of a motion for class certification, the parties shall include a suggested cut-off date in their FED. R. CIV. P. 26(f) report to the court and/or in any Scheduling Report filed with the court prior to the FED. R. CIV. P. 16 Scheduling Conference.

LR 24.1

CONSTITUTIONAL CHALLENGE TO A STATUTE – NOTICE, CERTIFICATION, AND INTERVENTION

See FED.R.CIV.P. 5.1.

LR 26.1

ATTORNEY CONFERENCE; FORMATION OF DISCOVERY PLAN

The formulation of a discovery plan as required by FED. R. CIV. P. 26(f) shall be accomplished and submitted to the Court within 14 days after the attorney conference, but no later than 14 days before the Court's scheduling conference (LR 16.1(a)). The agreed discovery plan shall be included in the attorney report filed with the Court. No other discovery materials, including interrogatories, requests for production, requests for admission, depositions, and FED. R. CIV. P. 26(a)(1) initial disclosure statements, shall be filed until they are used in the proceeding or the court orders filing. Those portions of discovery necessary to the disposition of motions shall be appended to the relevant filing.

The initiating party shall have the responsibility for maintaining discovery material and making it available as may be required during proceedings.

LR 30.1
DEPOSITIONS

See FED. R. CIV. P. 30(a)(2).

LR 32.1

USE OF DEPOSITIONS AT TRIAL

Depositions shall not be filed. It will be the deposing party's responsibility to maintain the original and to make it available as may be required for proceedings.

Depositions which a party intends to use at trial in lieu of calling the witness must be purged of all repetitious and irrelevant questions and answers, all objections which have been abandoned, and irrelevant colloquy between the attorneys. Purging shall be accomplished by designating the page and line numbers of material proposed to be used. This may be accomplished by the use of a high-lighting marker. A copy of the depositions so purged, or designations thereof, shall be served upon the opposing party no later than 14 days before the pretrial conference. Objections and counter-designations by the opposing party shall be served no later than 7 days before the pretrial conference. Objections shall be submitted to the Court for resolution at the pretrial conference and depositions shall be purged in accordance with the court's ruling. This subsection shall not apply to depositions used to refresh recollection, as an admission against interest, or for impeachment.

(a) **Use of Videotape Depositions**. Any deposition to be taken upon oral deposition may be recorded by videotape. Except as otherwise provided by this rule, all other rules governing the practice and procedure in depositions and discovery shall apply.

(b) **Subpoena and Notices of Videotape Depositions**

Every notice or subpoena for the taking of videotape deposition shall state that it is to be videotaped, the name and address of the person before whom it is to be taken, and the name and address of the videotape operator and of his employer. The operator may be an employee of the attorney taking the deposition.

(c) **Transcript of Videotape Deposition**

A stenographic transcript of the video deposition shall not be required, unless, upon motion of any party, or sua sponte, the court so directs, and apportions the cost of same among the parties as appropriate. Any party may elect to provide a transcript at his expense, in which event copies shall be made available to all other counsel at cost.

(d) **Videotaping Deposition Procedure**

In addition to the requirements set forth in FED. R. CIV. P. 30(b)(5)(A), the officer must begin the deposition with an on-the-record statement that includes 1) the caption of the case and 2) the party on whose behalf the deposition is being taken. After these preliminary requirements, the officer shall swear the witness on camera. If more than one tape is used to record the deposition, the officer shall make an on-camera announcement for the end of each tape and the beginning of each subsequent tape.

(e) **Timing**

The deposition shall be timed by a digital clock on camera which shall show continually each hour, minute and second of each tape of the deposition.

(f) **No Signature**

No signature of the witness to a videotaped deposition will be required.

(g) **Custody and Copies**. The attorney for the party taking the deposition shall take custody of and be responsible for safeguarding of the videotape and shall permit the viewing of and shall provide a copy of the videotape or the audio portion thereof upon the request and at the cost of a party.

(h) **Use**

A videotape deposition may be used to the same extent and in the same manner as an oral deposition under FED. R. CIV. P. 32.

LR 33.1

INTERROGATORIES TO PARTIES

(a) **Filing**

Interrogatories shall not be filed. It shall be the responsibility of the initiating party to maintain the original, together with answers, and to make them available as may be required during proceedings.

(b) **Limitation**

See FED.R.CIV.P. 33(a)(1).

(c) **Procedure**

(1) **Form**. The interrogatories shall be so arranged that after each separate question shall appear a blank space reasonably calculated to enable the answering party to have the answer typed in the space. The answering party shall verify his answers to said interrogatories immediately following his answer to the last interrogatory so propounded.

(2) **Service**. A party submitting the interrogatories shall serve and leave with the person to whom the interrogatories are directed the original thereof. Proof of service is governed by LR 5.1(b).

(3) **Answers to Interrogatories**. The party to whom interrogatories are directed shall answer each interrogatory within the space so provided or use additional pages, if necessary, or shall answer the interrogatories by preparing a separate document which contains both the interrogatories and the answers or responses thereto, and thereafter shall serve the original thereof upon the party propounding the interrogatories.

(4) **Objections to Interrogatories**. A party objecting to written interrogatories shall set forth each interrogatory objected to followed by his objection and the reasons for it.

LR 34.1

REQUESTS FOR PRODUCTION

(a) Requests for production and material submitted in response thereto shall not be filed. The initiating party shall have responsibility for maintaining the original and making them available as may be required during proceedings.

(b) Requests for production may be propounded together with interrogatories, and in such event shall not be counted against the limitation on the number of interrogatories which may be propounded.

LR 36.1

REQUESTS FOR ADMISSION

(a) Requests for admission shall not be filed.

(b) Requests for admission shall not be combined in the same document with any other form of discovery. The number of requests for admission which may be directed to any one party by any adverse party shall be fifteen, including subparts. The genuineness of multiple documents may be included in one request. The limitation in this rule may be modified by the Court for good cause shown.

LR 37.1

DISCOVERY MOTIONS

(a) **Form**

Motions to compel answers to interrogatories or questions, or to determine the sufficiency of answers to either, and all objections to requests for admissions shall identify and quote in full each interrogatory or question and the answer, if any, or the admission sought to be obtained. Motions for production and motions for protective orders must set forth, without reference to other pleadings or documents, the objects sought to be produced.

(b) **Obligation to Confer**

A motion made pursuant to FED. R. CIV. P. 26 to 37 inclusive or FED. R. CIV. P. 45 will not be heard unless the parties have conferred and attempted to resolve their differences. At least 14 days before the date of the hearing, the parties shall file a statement setting forth the matters on which they have been unable to agree.

(c) **Time for Compliance**

The party against whom an order to compel has been entered shall comply with the order within 14 days after receiving notice of the Court order, unless the period is extended or reduced by Court order.

(d) The parties are reminded that FED. R. CIV. P. 37(a)(5) mandates the award of costs and attorney fees for inappropriate discovery practices.

(e) **Expedited Hearing**

Notwithstanding the provisions of this rule, expedited argument, which may be telephonic, is encouraged to resolve discovery matters which are not excessively complex or broad. The Court may dispense with formal motion practice and may require or allow expedited argument either on its own motion or upon application of any party.

(f) **Appointment of Special Master**

Where anticipated discovery is unusually complex, or where it appears that disputes over matters relating to discovery will be numerous, the Court may appoint a special master pursuant to FED. R. CIV. P. 53. The fees and costs of the master shall be borne by the parties in such amount and proportion as may be determined by the Court.

LR 38.1

JURY DEMAND

Federal practice sets forth stringent time requirements for submitting a jury demand. Counsel shall comply with FED. R. CIV. P. 38 and FED. R. CIV. P. 81.

There is no fee for jury demand.

LR 39.1
TRIAL BRIEFS

Trial briefs shall not exceed 20 pages without prior approval of the Court.

LR 40.1

PRIORITIES OF CASES

The trial calendar shall be arranged in the following order of precedence:

(1) Criminal cases;

(2) Civil cases with statutory precedence;

(3) All other civil cases.

LR 40.2

CALENDAR OF CASES

Setting and Notice
Cases shall be set on the trial calendar by the Court.

LR 41.1

DISMISSAL OF ACTIONS

(a) **By Plaintiff—Voluntary**

In case of dismissal by filing notice pursuant to FED. R. CIV. P. 41(a)(1), such notice shall contain a statement that no answer, counterclaim, or motion for summary judgment has been served, and shall be signed by the plaintiff or plaintiff's attorney.

(b) **For Lack of Prosecution**

In any civil case in which no action of record has been taken by the parties for the preceding one year the Court or a party shall note the case for dismissal and give thirty (30) days' notice to counsel of record. If no action of record is taken in the meantime, and no satisfactory explanation of non-action is submitted, an order of dismissal without prejudice will be entered by the Court on the date the case is noted for hearing.

LR 43.1

EXAMINATION OF WITNESSES

(a) **Conduct of Trial**

(1) On the trial of an issue of fact, only one attorney on either side shall examine or cross-examine any witness, except with the permission of the Court.

(2) It is the right and duty of an attorney to be present in the courtroom at all times the court may be in session. If an attorney is voluntarily absent during a court session, he waives his right to be present and consents to proceedings which take place in the courtroom during his absence.

(3) A party shall not be permitted to call more than two (2) expert witnesses on any issue, except with the permission of the Court.

(b) **Courtroom Decorum**

Counsel should be familiar with the guidelines set forth in LR 83.1.

LR 44.1.1

FOREIGN LAW

A party who intends to rely on law other than federal law or Washington State law shall give notice of such law and jurisdiction in the pleadings. Upon a showing of good cause, the Court may allow notice at a later date if no prejudice results.

LR 47.1

SELECTION OF JURORS AND JURY TRIALS

(a) **Examination of Jurors**

Examination of trial jurors shall be conducted by the Court. Counsel shall submit to the Court any proposed voir dire questions at least 7 days prior to trial or at such other time as the Court may direct.

(b) **Number of Jurors and Method of Selection**

In civil cases, the court shall seat not less than six and not more than twelve jurors. The number of jurors to be selected shall be determined by the court. The court shall advise the parties and counsel of the method of selection prior to the commencement of jury selection. Each party shall be entitled to three peremptory challenges or such number as the court determines in accordance with 28 U.S.C. § 1870. All selected jurors shall participate in the verdict, except for any juror(s) excused by the court for good cause.

In criminal cases, the number of jurors, alternates, and peremptory challenges shall be in accordance with FED. R. CRIM. P. 24. The court shall advise the parties and counsel of the method of selection prior to the commencement of jury selection.

(c) **Presence of Parties and Attorneys**

If a party or an attorney is voluntarily absent while a jury is deliberating, that party or attorney waives the right to be present and consents to proceedings which take place in the courtroom during such absence, after the expiration of 20 minutes from the time the party or attorney has been notified or attempted to be notified by telephone that his presence in the courtroom is required.

(d) **Contacting Jurors**

Counsel or the parties shall not contact or interview jurors or cause jurors to be contacted or interviewed after trial without first having been granted leave to do so by the Court.

LR 51.1

JURY INSTRUCTIONS

(a) **Giving Instructions Prior to Argument**

It is the general policy of this Court to give the instructions to the jury after the close of evidence and prior to argument. However, the court may give instructions at anytime.

(b) **Copy of Instructions for Jury Use**

A written set of the Court's instructions may be given to the jury when they retire to deliberate their verdict.

(c) **Submission of Proposed Instructions**

In jury cases, counsel for each party shall, at least 7 days prior to trial or such other time as may be fixed by the Court, file proposed instructions with the Clerk. The proposed instructions shall bear a cover sheet styled in the name and number of the case and titled (PLTF/DEF) PROPOSED JURY INSTRUCTIONS. Each proposed instruction shall be on a separate, plain, 8½" by 11" page and shall be headed "Instruction No.__". The instruction shall be numbered, contain supporting citations at the end of the instruction and shall not be identified as to the proposed party. A copy of the proposed instructions must be emailed to the assigned judge as an attachment. The attachment must be submitted as a "text" only file per the Court's Administrative Procedures for Electronic Case Filing for proposed orders. Proposed instructions upon questions of law developed by the evidence, which could not reasonably be anticipated, may be submitted at any time before closing argument. Except as otherwise provided above, the failure to submit proposed instructions in accord with this rule, or at such other time as the Court may set by order in a given case, shall be deemed a waiver of the defaulting party's right to propose instructions.

LR 54.1

COST BILLS

(a) **Verified Bill—Time for Serving**

The party in whose favor a judgment is rendered, and who is entitled to claim his/her costs, shall within 14 days after the entry of judgment, serve on the attorney for the adverse party and file with the Clerk of the Court a verified bill of costs on a form which will be furnished by the Clerk of the Court upon request. Attached to the bill of costs shall be a statement of notice to the adverse party specifying the date when such costs will be taxed, which shall not be less than 14 days from the date of service of the notice.

(b) **Proof of Service**

Proof or admission of service of the bill of costs and notice of taxation shall be filed before the time of hearing.

(c) **Objections to—How Made**

On or before the date specified in the notice, the party objecting to any item of costs contained in said bill of costs shall present the party's objections in writing, specifying each item to which objection is made, and the ground of the objection, and file any affidavit or other evidence relied on to support his objections, which evidence may be rebutted by other evidence.

(d) **Taxation of by Clerk**

The Clerk shall thereupon proceed to tax the costs, and shall allow only such items specified in the bill of costs as are properly chargeable as costs. The Clerk may require and consider further affidavits as necessary to determine allowable costs. The taxation of costs made by the Clerk shall be final unless modified on appeal as hereinafter provided.

(e) **Appeal from Decision of Clerk**

An appeal from the decision of the Clerk in the taxation of costs may be taken to the Judge, by either party, by filing a motion to retax which shall be filed and served within 7 days after the costs have been taxed by the Clerk and which shall specify the rulings of the Clerk to which the party objects. The motion to retax shall be noted for hearing pursuant to LR 7.1(h)(1).

(f) **Rules of Taxation of Costs**

(1) The fees of witnesses who testify shall be allowed, whether their attendance was procured by subpoena or was voluntary. Fees to witnesses who attend, but do not testify shall be allowed only upon order of the Court. Actual and necessary expense for travel, meals and housing or the allowance as computed at government rates, whichever is less, may be allowed.

(2) Stenographic fees for depositions may be allowed only when the deposition is used at trial or hearing for substantive or, in the Court's discretion, for impeachment purposes. Only the cost of the original deposition shall be taxed.

(3) All other costs shall be taxed in accordance with 28 U.S.C. §§ 1920, 1921, 1923 and 1927.

LR 54.2

JURY COST ASSESSMENT

Refer to Sanctions LR 83.3(i).

LR 55.1
DEFAULTS

Under FED. R. CIV. P. 55, obtaining a default judgment in federal court is a two-step process: (1) entry of default and (2) entry of default judgment. A party must first file a motion for entry of default, obtain a Clerk's Order of Default, and then file a separate motion for default judgment.

(a) **Motion for Entry of Default**

Under federal practice the Clerk enters orders of default without action by the Judge. Upon motion by a party and supported by affidavit, the Clerk shall enter the default of any party against whom a judgment for affirmative relief is sought but who has failed to plead or otherwise defend.

(1) **Notice Required**. Written notice of the intention to move for entry of default must be provided to counsel, or if counsel is unknown, to the party against whom default is sought. Such notice shall be given at least 14 days prior to the filing of the motion for entry of default. If notice cannot be provided because the identity of counsel or whereabouts of a party are unknown, the moving party shall inform the Clerk in the affidavit.

(2) **Affidavit Required**. The moving party must show: (a) that proper notice of the intention to seek an entry of default has been given; and (b) that the party against whom default is sought was properly served with the summons and complaint in a manner authorized by FED. R. CIV. P. 4.

(3) **No Notice of Hearing Required**. The Clerk will note the motion for entry of default the day it is filed. No notice of hearing is to be filed.

(b) **Motion for Entry of Judgment by Default**

No motion for judgment by default shall be filed unless an order of default has been entered by the Clerk.

(1) **Affidavit Required**. When a motion is made for a default judgment, the motion shall be supported by an affidavit in compliance with Fed. R. Civ. P. 55(b). The affidavit shall also:

a. Specify whether the party against whom judgment is sought is an infant or an incompetent person, and if so,

whether that person is represented by a general guardian, committee, conservator or other representative;

b. Attest that the Servicemembers Civil Relief Act of 2003 does not apply;

c. Attest that written notice of the motion has been served on the defaulting party, if required by Fed. R. Civ. P. 55(b)(2); and

d. Attest that the costs sought to be taxed have been incurred or will necessarily be incurred.

(2) **Notice of Hearing**. Motions for default judgment shall be noted for hearing in accordance with LR 7.1(h)(1).

Notwithstanding the provisions of FED. R. CIV. P. 55(b)(l), the Clerk may refer any application for entry of default judgment to the Court for review prior to formal entry.

LR 56.1
SUMMARY JUDGMENT

(a) Any party filing a motion for summary judgment shall set forth separately from the memorandum of law, and in full, the specific facts relied upon in support of the motion. The specific facts shall be set forth in serial fashion and not in narrative form. As to each fact, the statement shall refer to the specific portion of the record where the fact is found (i.e., affidavit, deposition, etc.). The specific portions of the record relied upon shall be attached to the statement of material facts.

(b) Any party opposing a motion for summary judgment must file with its responsive memorandum a statement in the form prescribed in (a), setting forth the specific facts which the opposing party asserts establishes a genuine issue of material fact precluding summary judgment. Each fact must explicitly identify any fact(s) asserted by the moving party which the opposing party disputes or clarifies. (E.g.: "Defendant's fact #1: Contrary to plaintiff's fact #1, . . .") Following the fact and record citation, the opposing party may briefly describe any evidentiary reason the moving party's fact is disputed. (E.g.: "Defendant's supplemental objection to plaintiff's fact #1: hearsay.")

(c) The moving party may file with its reply memorandum, if any, a statement in the form prescribed in (a), setting forth the specific facts which the moving party asserts establishes the absence of genuine material fact disputes. Each fact must explicitly identify any fact(s) asserted by the opposing party which the moving party disputes or clarifies, although the moving party need not repeat facts asserted in its initial statement of facts. (E.g.: "Plaintiff's fact #1: Contrary to defendant's fact #1, . . .") Following the fact and record citation, the moving party may briefly describe any evidentiary reason the opposing party's fact is disputed. (E.g.: "Plaintiff's supplemental objection to defendant's fact #1: party admission exception to hearsay.")

(d) In determining any motion for summary judgment, the Court may assume that the facts as claimed by the moving party are admitted to exist without controversy except as and to the extent that such facts are controverted by the record set forth in (b).

(e) In any memorandum in support of or opposing a motion for summary judgment, there shall be a citation to the specific portion(s) of the record supporting a position of the party.

Dispositive motions are also discussed in LR 7.1, Motion Practice.

LR 66.1

RECEIVERSHIPS

(a) **Inventories**

Unless the Court otherwise orders, a receiver or similar officer as soon as practicable after his appointment, and not later than 21 days after he has taken possession of the estate, shall file an inventory of all the property and assets in his possession or in the possession of others who hold possession as his agents, and in a separate schedule, an inventory of the property and assets of the estate not reduced to possession by him but claimed and held by others.

(b) **Reports**

Within 6 months after the filing of the inventory, and at regular intervals of 6 months thereafter until discharged, or at such other times as the Court may direct, the receivers or other similar officer shall file reports of his receipts and expenditures and of his acts and transactions in an official capacity.

(c) **Compensation of Receivers, Attorneys, and Others**

The compensation of receivers or similar officers, of their counsel, and of all those who may have been appointed by the Court to aid in the administration of the estate, the conduct of its assets, the formation of reorganization plans, and the like, shall be ascertained and awarded by the Court in its discretion. Such an allowance shall be made only on such notice to creditors and other persons in interest as the Court may direct. The notice shall state the amount claimed by each applicant.

(d) **Administration of Estates**

In all other respects the receiver or similar officer shall administer the estate as nearly as possible in accordance with the practice in the administration of estates in bankruptcy, except as otherwise ordered by the Court.

(e) **Receivership Action—How Dismissed**

No action in which a receiver has been appointed shall be dismissed by any party except by leave of Court and on such notice to other parties as the Court may prescribe.

LR 67.1

DEPOSIT IN COURT

Whenever it is admitted by the pleading of any party to an action, or is admitted by such party on his/her examination, that he/she has in his/her possession or under his/her control any money or other thing capable of delivery, which is the subject of the litigation and is held by him/her as trustee for another party to the cause, or which belongs to or is due to another party to the cause, the Court may in its discretion upon motion made after due notice, order the same to be deposited in court pending the determination of the litigation or to be delivered to the party to whom it belongs or is due, subject to further order of the Court, upon such conditions as may be just, including the release of the party who has it in possession from all further liability with respect to it.

Whenever a party seeks a court order for money to be deposited by the clerk in an interest-bearing account, the party shall also email the order to the Finance Department at Finance@waed.uscourts.gov. The proposed order will be reviewed for proper form and content and compliance with this rule prior to signature by the judge for whom the order is prepared.

Any order obtained by a party or parties in an action that directs the clerk to invest in an interest-bearing account or instrument funds deposited in the registry of the court pursuant to 28 U.S.C. § 2041 shall include the following:

(a) The amount to be invested;

(b) The name of the depository approved by the Treasury of the United States as a depository in which funds may be deposited;

(c) A designation of the type of account or instrument in which the funds shall be invested;

(d) Wording which directs the clerk to deduct from the income earned on the investment a fee, as set by the Director of the Administrative Office and authorized by the Judicial Conference of the United States. The fee, as adopted by local order, will be deducted when funds are withdrawn and distributed.

Unless the funds are deposited in a depository designated as above, the funds deposited with the Clerk shall be placed in the United States Treasury, which by statute earns no interest.

LR 69.1

EXECUTION AND SUPPLEMENTAL EXAMINATION OF JUDGMENT DEBTORS

Supplemental proceedings shall generally be conducted without the intervention of the Court, and the judgment creditor may use such discovery tools or procedures as may be available under the Federal Rules of Civil Procedure, the Washington State Rules of Civil Procedure, or the laws of the State of Washington. To the extent a judgment debtor, or any other person, fails to properly respond to any discovery properly served under the applicable law or rule(s), the judgment creditor may, after complying with CR 37(d), apply to a Magistrate Judge for an order directing such debtor or other person to appear for examination.

LR 72.1

MAGISTRATE JUDGES; PRETRIAL ORDERS

Refer to Non-Dispositive Pretrial Matters, LMR 3.

LR 73.1

MAGISTRATE JUDGES; TRIAL BY CONSENT AND APPEAL OPTIONS

Refer to Civil Trials Before Magistrate Judges by Consent of Parties 28 U.S.C. § 636(c), LMR 12.

LR 77.1

SESSIONS OF COURT

(a) **Sessions of Court**

Regular sessions of Court shall be held in Spokane, Yakima or Richland, as the Court shall determine.

(b) **Photography, Televising, Broadcasting, Recording**

Pursuant to the direction of the Judicial Conference of the United States, no photographs may be taken and no recording or transmitting device, except those used by authorized Court personnel, may be used in a courtroom or its environs in connection with any judicial proceedings and the broadcasting of judicial proceedings by radio, television or other means is prohibited.

As used herein "judicial proceeding" means: (1) any trial or hearing other than a ceremonial occasion specifically exempted from those provisions by Court order; (2) any proceeding before any United States District Judge, Bankruptcy Judge or Magistrate Judge; (3) sessions of the Grand Jury; (4) any person participating in a judicial proceeding, including petit and grand jurors. "Courtroom" of a United States District Court means the foyer, witness room, jury room, chambers, and all space behind the doors containing the courtroom. "Courtroom" of a United States judge means any place where a judicial proceeding is conducted. The "environs" of the courtrooms of the United States District Court for the Eastern District of Washington are defined as follows:

(1) All areas in the portion of the Thomas S. Foley United States Courthouse at Spokane, Washington occupied by the United States District Court including areas on the fifth, seventh, eighth and ninth floors of the building or on the second and third floor of the United States Post Office Building, Spokane, Washington.

(2) All areas of the William O. Douglas Courthouse at Yakima, Washington occupied by the United States District Court.

(3) All areas in the portion of the U.S. Courthouse and Federal Building at Richland, Washington occupied by the United States District Court including the mezzanine of the north wing of the building.

(4) All other locations within the district where the Court is in session.

LR 78.1
MOTION DAY

See LR 7.1(e).

LR 79.1

CUSTODY AND DISPOSITION OF EXHIBITS, DEPOSITIONS AND SEALED DOCUMENTS

(a) After being admitted into evidence, exhibits of a documentary nature in any case pending or tried in this Court, shall be placed in the custody of the Clerk, unless otherwise ordered by the Court. All other exhibits, models and material offered or admitted in evidence shall be retained in the custody of the attorney or party producing the same at trial unless ordered by the Court.

1. At the conclusion of the trial or hearing, every exhibit marked for identification or introduced in evidence, and all depositions and transcripts, shall be returned to the party who produced them.

2. On request, a party or his attorney who has custody of any exhibits, has the responsibility to produce any and all such exhibits to this Court or the Court of Appeals; and shall grant the reasonable request of any party to examine or reproduce such for use in the proceeding.

(b) All exhibits received in evidence in a criminal case that are in the nature of narcotic drugs, legal or counterfeit money, firearms or contraband of any kind, shall be retained by the United States Attorney or his designee pending disposition of the case and for any appeal period thereafter.

(c) The Court, upon application, will order documentary exhibits retained by the Clerk returned to the party to whom they belong, upon the filing of copies thereof, approved by counsel for all parties concerned, in place of the originals.

(d) After final judgment and after the time for appeal and motion for new trial has passed, or upon the filing of a stipulation waiving and abandoning the right to appeal, and to a new trial, the Clerk is authorized, without further order of the Court, to return all exhibits and depositions in civil, criminal and bankruptcy cases to the respective parties or their counsel.

(e) **Sealed Paper Documents - Generally**. Unless otherwise ordered by the Court, any sealed paper document, paper, paper case file or tangible thing in any action where final judgment or final disposition occurred in 2006 or thereafter, will be subject to the custody and disposition processes according to (f) or (g), below, as applicable.

(f) **Sealed Documents Filed in Paper; Actions in which No Trial Commenced**. Unless otherwise ordered by the Court, any paper document, paper, paper case file or tangible thing filed under seal in any action, for which no trial commenced, shall be eligible for destruction no less than 23 years from the date of entry of final judgment or final disposition. The seal will be vacated without further action by the Court at the time of destruction.

(g) **Sealed Documents Filed in Paper; Actions in which the Case was Terminated During or After Trial**. Unless otherwise ordered by the Court, any paper document, paper, paper case file or tangible thing filed under seal in any action, for which a trial commenced or in a case designated by the Clerk for permanent retention, shall be unsealed without further action by the Court 23 years from the date of entry of final judgment or final disposition, and will remain stored as a permanent record. This Local Rule further applies to all cases consolidated pursuant to Rule 65(a), Federal Rules of Civil Procedure.

The following types of cases will be exempt from this practice:

Sexual abuse cases filed pursuant to 18 U.S.C. § 3509 and Juvenile cases, unless the record has been expunged.

LR 83.1

COURTROOM PRACTICE AND CIVILITY

(a) **Examination of Witnesses and Argument**

(1) During opening statement, examination of witnesses and argument, counsel should stand at the lectern.

(2) Do not approach a witness without asking permission of the Court. When permission is granted for the purpose of working with an exhibit, resume the examination from the lectern when finished with the exhibit.

(3) Rise when addressing the Court and when making objections. This calls the Court's attention to you.

(b) **Objections to Questions**

(1) When objecting, state only that you are objecting and specify the ground or grounds of objection. Do not use objections for the purpose of making a speech, recapitulating testimony or attempting to guide the witness.

(2) Argument upon the objection will not be heard until permission is given or argument is requested by the Court.

(c) **Decorum**

(1) Colloquy or argument between attorneys is not permitted. Address all remarks to the Court.

(2) In a jury case, if there is an offer of stipulation, first confer with opposing counsel about it.

(3) Do not ask the reporter to mark testimony unless you have first obtained the Court's approval to do so. Such permission will be granted only where testimony is expected to be unusually lengthy. All requests for re-reading of the questions or answers shall be addressed to the Court.

(4) Counsel during trial shall not exhibit familiarity with witnesses, jurors or opposing counsel. The use of first names or nicknames is to be avoided. During jury argument, no juror shall be addressed individually or by name.

(5) During the argument of opposing counsel, remain seated at the counsel table and be respectful. Never divert the attention of the Court or the jury.

(d) **The Witness and/or the Court**

(1) Witnesses shall at all times be treated with fairness, consideration and respect.

(2) No person shall ever by facial expression or other conduct exhibit any opinion concerning any testimony which is being given by a witness, or as to a ruling of the Court. Counsel will admonish their clients and witnesses about this common occurrence.

(e) **Court Hours and Promptness**

(1) The Court makes every effort to commence proceedings at the time set. Promptness is expected from counsel and witnesses.

(2) If a witness was on the stand at a recess or adjournment, have the witness on the stand ready to proceed when Court is resumed.

(3) Do not run out of witnesses. Counsel should make every effort to schedule witnesses in order to ensure full utilization of the trial day.

(f) **Witnesses Out of Sequence**

Upon a showing of particular need, the Court may permit a witness to be called out of order. Anticipate any such possibility and discuss it with opposing counsel. If there is objection, confer with the Court in advance.

(g) **Exhibits**

(1) Unless very few in number, exhibits should be premarked for identification prior to trial. The deputy clerk assigned to each judge will cooperate with counsel in facilitating the marking and management of exhibits.

(2) Each counsel shall keep a list of all exhibits.

(3) Unless it is not possible due to the nature of an exhibit, have photocopies of an exhibit for the Court, opposing counsel and the witness.

(4) Documents and other exhibits, where practical, should be shown to opposing counsel before their use in court.

(5) Each counsel is responsible for any exhibits secured from the Clerk. At each noontime or end-of-the-day adjournment, return all exhibits to the Clerk.

(6) Ordinarily, exhibits should be offered in evidence when they become admissible rather than at the end of counsel's case.

(7) When counsel or witnesses refer to an exhibit, mention should also be made of the exhibit number so that the record will be clear.

(8) Where maps, diagrams, pictures, etc. are being used as exhibits, and locations or features on such documents are being pointed out by witnesses or counsel, such locations should be indicated by appropriate markings on the documents if not readily apparent from the documents themselves. Unnecessary

markings should be avoided. Markings on exhibits should only be made after receiving the Court's permission to do so.

(9) Where several exhibits are contained within an envelope, package or box, mark the container as exhibit 1, for example, and the contents as exhibit 1-A, 1-B, etc.

(h) **Difficult Questions—Advance notice**

If you have reason to anticipate that any question of law or evidence is difficult or will provoke an argument, give the Court advance notice.

(i) **Use of Answers to Interrogatories and Requests for Admissions**

Where there has been extensive discovery and counsel expects to offer answers to interrogatories or requests for admissions extracted from several separate documents, a document showing such question and answer or admission shall be prepared with copies for the Court and opposing counsel. This obviates the time-consuming process of thumbing through extensive files to locate the particular items.

(j) **Opening statements**

Confine your opening statements to what you expect the evidence to show. It is not proper to use the opening statement to argue the case or instruct as to the law.

(k) **Civility Code**

Members of the bar of the United States District Court, Eastern District of Washington shall conduct themselves in accordance with the following:

PREAMBLE

As a lawyer, I recognize my first duty is to zealously represent my client. Yet, each lawyer also has the responsibility for making our system of justice work honorably, fairly, and efficiently. To accomplish this end, I will comply with my profession's disciplinary standards, and be guided by the following creed when dealing with clients, opposing counsel, the courts and the general public.

(1) My Client:

(a) I will be loyal and sensitive to my client's needs, but I will not permit that commitment to block my ability to provide objective and candid advice.

(b) I will try to achieve my client's lawful objectives as quickly and economically as possible.

(c) I will advise my client that civility and courtesy are not to be equated with weakness.

(d) I will abide by my client's ethical decisions regarding the client's goals, but nevertheless will advise that a willingness to engage in settlement negotiations is consistent with zealous and effective representation.

(2) Opposing Parties and their Counsel:

(a) I will try to act with dignity, integrity, and courtesy in oral and written communications.

(b) My word is my bond, not only with opposing counsel, but in all my dealings.

(c) In litigation, I will agree with reasonable requests for extensions of time, stipulate to undisputed facts to avoid needless costs or inconvenience, and waive procedural formalities when the interests of my client will not be adversely affected.

(d) I will facilitate the processing of all reasonable discovery requests.

(e) I will not ask colleagues for the rescheduling of court settings or discovery proceedings unless a legitimate need exists; nor will I unreasonably withhold consent for scheduling accommodations. I will try to consult

with opposing counsel before scheduling depositions, hearings and other proceedings or meetings.

(f) I will promptly respond to oral and written communications.

(g) I will avoid condemning my adversary or the opposing party.

(3) The Courts and Other Tribunals:

(a) I will be candid with and courteous to the Court and its staff.

(b) I will be punctual in attending court hearings, conferences and depositions; I recognize that tardiness is demeaning to me and to the profession.

(c) I will stand to address the Court, and dress appropriately to show my respect for the Court and the law.

(d) I will refrain from condemnation of the Court.

(4) The Public and our System of Justice:

(a) I will remember that my responsibilities as a lawyer include a devotion to the public good and the improvement of the administration of justice, including the contribution of uncompensated time for those persons who cannot afford adequate legal assistance.

(b) I will remember the need to promote the image of the profession in the eyes of the public and be guided accordingly when considering advertising methods and content.

LR 83.2

BAR ADMISSION AND APPEARANCE(S) IN A CASE

(a) Eligibility

(1) Any attorney who is a member in good standing of the Washington State Bar Association is eligible for admission to the bar of this court. Admission to and continuing membership in the bar of this court is limited to attorneys who are active members in good standing of the State Bar of Washington. In addition, any attorney who is a member in good standing of the bar of any state and who is employed in a professional capacity by the office of the United States Attorney for the Eastern District of Washington or the Federal Defender in this district, and who while being so employed may have occasion to appear in this court on behalf of the United States or the Federal Defender is eligible for conditional admission to the bar of this court.

(2) Any attorney employed outside of this district on a regular basis by any agency of the United States who is a member in good standing of the bar of any state, may appear in this court on behalf of the United States on an individual case without being admitted to the bar thereof, subject to the Local Rules of this court including the Local Rules governing the conduct of attorneys. Said attorneys shall provide written notice to the United States Attorney of this district of his or her appearance in an individual case, except for attorneys who are not employed by the United States Department of Justice and who are appearing on behalf of federal agencies with independent statutory litigating authority.

(b) Procedures for Admission

(1) General Procedure for Admission (not applicable for government or Federal Defender attorneys). Each applicant for admission shall pay the Clerk the fee prescribed by the judges of this court. The applicant shall file with the Clerk a verified petition on a form to be obtained from the Clerk, setting forth applicant's residence; office address; general and legal education; the courts to which applicant has been admitted to practice and current bar status; the disciplinary actions and/or sanctions, if any, to which applicant has been subjected or are now pending; and such other information required by the Court. Every petition for admission shall be accompanied by certificates from two

members of the bar of this court who are acquainted with the applicant. The certificants shall set forth their appraisal of the applicant's reputation and character. If the applicant is not acquainted with two members of the bar of this court, the applicant shall complete the Petition for Admission, Form A. The Petition, Form A, requires additional information including a list of all courts in which the applicant has practiced, a summary of his/her experience as an attorney, and two certificates of recommendation from members of the Washington State Bar, or another state bar, who set forth their appraisal of the applicant's reputation and character. If the Clerk finds that the petition for admission complies with these requirements, the Clerk will submit it to the Court. If the Court is satisfied that the applicant is of good moral character and professional standing, the petition will be granted but the applicant must then take the oath of admission in order to complete the admission process.

(2) **Conditional Admission for Attorneys for the United States and Federal Defender Organization**. In the case of an attorney employed in this district for the United States Attorney or for the Federal Defender, his or her petition must contain all information set forth under subsection (1) hereof, except that in lieu of certificates from two members of the bar, the applicant will provide a verification from the district's U.S. Attorney or one of the district's Assistant U. S. Attorneys that the individual is an attorney for the United States or from the district's Federal Defender or one of the district's Assistant Federal Defenders that the individual is an attorney for the Federal Defender organization. The right of such an attorney to practice before this court is conditional upon his or her continuing to be so employed. The form Petition for Conditional Admission is available from the Clerk's Office and public web site, www.waed.uscourts.gov. The admission fee is waived for conditional admission for attorneys employed by the U.S. Attorney and Federal Defender.

(c) Permission to Participate in a Particular Case Pro Hac Vice

(1) Any member in good standing of the bar of any court of the United States, or of the highest court of any state, or of any organized territory of the United States, and who neither resides nor maintains an office for the practice of law in the State of Washington, may be permitted upon a showing of particular need to appear and participate in a particular case. Any non-admitted attorney applying to participate in a particular case shall pay the application fee prescribed by the judges of this court. For good cause shown, the rule may be waived by the Court in a criminal case. There shall be joined of record in such appearance an

associate attorney having an office in this state and admitted to practice in this court who shall sign all pleadings, motions, and other papers prior to filing and shall meaningfully participate in the case.

(2) A motion to appear pro hac vice by non-admitted counsel pursuant to this Rule shall include the following:

(a) Applicant's address and phone number;
(b) Dates of admission to practice before other courts;
(c) The name, address and phone number of admitted counsel with whom the applicant will be associated;
(d) The necessity for appearance by the applicant;
(e) Whether the applicant has any pending disciplinary sanction actions or has ever been subject to any disciplinary sanctions by any court or Bar Association.

(d) **Appearances, Withdrawal and Substitution**

(1) **Appearances and Changes to Attorney's Address**. An appearance may be made by filing a formal notice of appearance. Alternatively, the filing of any document shall constitute an appearance by the attorney who signs it.

Once an attorney has appeared in a case, the attorney must promptly file a notice of change of address if there is a change in the attorney's mailing address, business e-mail address, telephone, or fax number. The attorney must also update his/her CM/ECF User Account.

(2) **A Party having Appeared by an Attorney**. A party having appeared by an attorney cannot appear pro se or otherwise act except through the attorney, unless a motion has been filed and properly served and an order of substitution is entered by the Court.

(3) **Withdrawal and Substitution of Counsel Within Same Law Firm**. Where there has simply been a change (withdrawal or addition) of counsel within the same law firm, an order of substitution is not required; the new attorney will file a Notice of Appearance and/or the withdrawing attorney will file a Notice of Withdrawal. However, where there is a change in counsel that affects a termination of one law office and the appearance of a new law office, leave of Court is required and a motion for leave to withdraw shall be filed. The motion shall demonstrate good cause and shall be governed by LR 7.1.

(4) **Withdrawal – Court Approval Required**. An attorney must obtain leave of Court if his/her withdrawal leaves the party unrepresented or without local counsel. A motion for leave to withdraw must be filed and served on the client and opposing counsel. The motion shall demonstrate good cause and shall be governed by LR 7.1.

(5) **Death, Removal, Suspension, or Inaction of Attorney**. When an attorney dies, is removed or suspended, or ceases to act, the party, unless already represented by another attorney, must designate a new attorney or file a pro se notice of appearance before further proceedings occur.

(6) **Attorney's Authority and Duty Shall Continue**. The authority and duty of attorneys of record shall continue after final judgment for all proper purposes.

(e) Multiple counsel—Limitation of Activities

If more than one attorney represents a party, only one attorney shall examine or cross-examine a witness in behalf of such party, and not more than two attorneys shall argue the merits of the cause on behalf of such party, except by permission of the Court.

(f) Compliance with Local Rules and Practice Before the Court

Every member of the bar of this court or attorney practicing before it shall be familiar with and comply with the Local Rules of this court and shall maintain the respect due courts of justice and judicial officers; shall perform with the honesty, care, and decorum required for the fair and efficient administration of justice; and shall discharge the obligations owed to his clients and to the judges of the court.

LR 83.3

ATTORNEY DISCIPLINE

(a) Conduct Subject to Discipline

This Court may impose discipline on any attorney practicing before this Court, whether or not a member of the bar of this Court, who engages in conduct violating applicable Rules of Professional Conduct of the Washington State Bar, or who fails to comply with rules or orders of this Court. The discipline may consist of disbarment, suspension, reprimand, or any other action that the Court deems appropriate and just.

(b) Initiation of Disciplinary Proceedings

Where a district, magistrate, or bankruptcy judge of this district believes that conduct of an attorney may warrant disbarment, suspension, or a reprimand by the Court, as opposed to the imposition of sanctions, such judge may recommend the initiation of disciplinary proceedings by issuing a written recommendation for the initiation of disciplinary proceedings to the chief judge of this district. The chief judge of this district, or the most senior active district judge if the chief judge is the judge recommending such action, shall review the recommendation to determine if reasonable grounds exist for the initiation of disciplinary proceedings. If the chief judge determines that disciplinary proceedings should be initiated, the chief judge shall issue an order to show cause under this rule that identifies the basis for possible discipline.

(c) Reciprocal Discipline

An attorney who is a member of the bar of this Court shall provide the clerk of this Court with a copy of any order or other official notification that the attorney has been subjected to disbarment or suspension in any other jurisdiction or has resigned from another bar during the pendency of discipline proceedings. When this Court learns that a member of the bar of this Court has been disbarred or suspended from the practice of law by any court or resigns during the pendency of disciplinary proceedings, the clerk of this Court shall issue an order to show cause why the attorney should not be disbarred or suspended from practice in this Court. The attorney would be required to show one of the following: that he/she was deprived of due process, there is insufficient proof of misconduct, or a grave injustice would result from imposition of the proposed discipline.

(d) Response

An attorney against whom an order to show cause is issued shall have 28 days from the date of the order in which to file a response. The attorney may include in the response a request for a hearing on briefs, or for an in-person or telephonic hearing. The failure to include a request for a hearing will be deemed a waiver of any right to a hearing. The failure to file a timely response may result in the imposition of discipline by the chief judge of this district, or his or her district judge designee, without further notice.

(e) Hearing on Disciplinary Charges

If requested by the attorney, and if the hearing judge, in his or her sole discretion, determines that an in-person hearing is warranted, an in-person hearing shall be conducted on the disciplinary charges on the record. If the hearing judge determines that an in-person hearing is not warranted or required, the matter shall be determined by the hearing judge on the record submitted to him or her. The chief district judge, or if the chief district judge is the judge recommending the disciplinary action or is unavailable, the most senior active judge of the district, shall randomly refer the matter to an individual active or senior district judge, including the chief judge, or to a magistrate judge, other than the judge recommending the action, for a report and recommendation. The attorney may be represented by counsel who shall file a notice of appearance with the designated judge and with any attorney appointed by the Court to prosecute the matter. In appropriate cases, the chief district judge of this district, or if the chief district judge is the complaining judge, the most senior active district judge, may appoint an attorney to prosecute charges of misconduct and shall provide notice of that appointment to the attorney and his counsel, if any.

(f) Report and Recommendation

If the matter is referred to a judicial officer, that judicial officer shall prepare a report and recommendation. The report and recommendation shall be served on the attorney, and the attorney shall have 21 days from the date of the report and recommendation within which to file a response. Where the attorney files a response to the report and recommendation, the report and recommendation, together with the response, shall be presented to a panel of three active or senior district judges of this district, other than the complaining judge. The final order in a disciplinary proceeding where a response has been filed by the attorney, shall be by the three-judge panel. In the absence of a response by the attorney, to the report and recommendation, the final order shall be by the chief district judge, or his or her designee district judge.

Any three-judge panel shall be composed of the chief district judge, if not the complaining judge, and two other active or senior district judges, randomly drawn. If the chief district judge is the complaining judge or is unavailable, the third member of the judicial panel shall also be randomly drawn. The chief district judge, or in his or her absence, the most senior active district judge on the panel, shall preside. In its discretion, the panel may call for further submittals or an in-person or telephonic hearing.

(g) Reinstatement

A suspended or disbarred attorney may file a petition for reinstatement with the clerk of this Court. The petition shall contain a concise statement of the circumstances of the disciplinary proceedings, the discipline imposed by this Court, and the grounds that justify reinstatement of the attorney. That petition shall be referred to a judicial officer and, if requested by the applicant after the report and recommendation, to a three-judge panel as provided above. The chief district judge shall thereafter rule on the petition, absent a request by the attorney for a three-judge panel.

(h) Confidentiality

All proceedings under this rule shall be public, except upon an order for good cause shown that confidentiality is appropriate to protect the privacy of the persons involved.

(i) Sanctions

(1) Attorneys are expected to advise the Clerk promptly when a case is settled. Whenever any civil action scheduled for jury trial is settled or otherwise disposed of in advance of the actual trial, then, except for good cause shown, juror costs, including Marshal's fees, mileage and per diem, shall be assessed equally against the parties and/or their counsel, or otherwise assessed as directed by the Court, unless the Clerk's Office is notified at least one full business day prior to the day on which the action is scheduled for trial in time to advise the jurors that it will not be necessary for them to attend. In addition to the foregoing, any attorney who fails to give the Clerk such prompt advice may be subject to such sanctions as the Court deems appropriate.

(2) Failure of an attorney for any party or any party acting pro se to appear at a hearing, trial or conference, or to complete the necessary preparations therefor or to meet and confer as provided by these rules, or to appear or be

prepared for any proceeding on the date assigned, shall be grounds for imposition of appropriate sanctions.

(3) The violation of or failure to conform to any of the Local Rules of this Court shall subject the offending party and/or his attorney, at the discretion of the Court, to appropriate discipline, including the imposition of sanctions, attorney fees and costs as the Court may deem proper under the circumstances.

(4) Nothing in this rule shall limit the power of an individual judge to impose sanctions as authorized under other existing authority.

(5) This rule does not restrict the judges of this district from referring a matter to any bar association for disciplinary action.

LR 83.4

COURT POLICY AGAINST DISCRIMINATION

Judges, attorneys and judicial employees shall fulfill their roles under the highest standards of professionalism. Unjustified treatment will be avoided in both language and action. All are aware of the need to act without regard to gender, race, religious or other inappropriate bias. To this end, persons appearing in court who believe they have been treated without equal respect and dignity may bring the matter to the attention of a magistrate judge and/or the chief judge. Matters brought to the attention of a magistrate judge will be discussed with the chief judge.

LR 83.5

BANKRUPTCY CASES, PROCEEDINGS AND APPEALS

(a) Referral of Bankruptcy Cases and Proceedings

(1) **Cases and Proceedings Under Title 11, United States Code**. This court hereby refers to the bankruptcy judges of this district all cases under Title 11, and all proceedings arising under Title 11 or arising in or related to cases under Title 11.

(2) **Cases and Proceedings Under the Bankruptcy Act of 1898.** The bankruptcy judges of this district shall hear and determine cases and proceedings arising under the Bankruptcy Act of 1898, as amended, pursuant to section 403(a) of the Bankruptcy Reform Act of 1978.

(b) Bankruptcy Appeals

(1) **Bankruptcy Appellate Panel**

(a) Pursuant to 28 U.S.C. § 158 (b)(2), this court hereby authorizes a bankruptcy appellate panel to hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges from this district, subject to the limitations set forth in sub-paragraphs (b) through (d).

(b) The bankruptcy appellate panel may hear and determine only those appeals in which all parties to the appeal consent thereto pursuant to LR 83.5(b)(2).

(c) The bankruptcy appellate panel may hear and determine appeals from final judgments, orders, and decrees entered by bankruptcy judges and, with leave of the bankruptcy appellate panel, appeals from interlocutory orders and decrees entered by bankruptcy judges.

(d) The bankruptcy appellate panel may hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges after July 20, 1984, and appeals transferred to this court from the previous

Ninth Circuit bankruptcy appellate panel by section 115(b) of The Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98-353. The bankruptcy appellate panel may not hear and determine appeals from judgments, orders, and decrees entered by bankruptcy judges between December 25, 1982, and July 10, 1984, under the Emergency Bankruptcy Rules of this district.

(2) **Form and Time of Consent**

The consent of a party to allow an appeal to be heard and determined by the bankruptcy appellate panel shall be deemed to have been given unless written objection thereto is timely made in accordance with paragraph 2 of the Amended Order Establishing and Continuing the Bankruptcy Appellate Panel of the Ninth Circuit, which is incorporated herein by reference. [This Amended Order is set forth in the Appendix of Orders of the Rules of the United States Bankruptcy Appellate Panel of the Ninth Circuit.]

(2) **Rules Governing Bankruptcy Appeals**

(a) Practice in such bankruptcy appeals as may come before this district shall be governed by Part VIII of the Rules of Bankruptcy Procedure, except as provided in this local rule or in rules subsequently adopted by this district court.

(b) Notwithstanding subparagraph (a), the time for filing appellant's, appellee's, and reply briefs for consideration by the district court shall be 40 days, 30 days and 14 days, respectively, in lieu of the time limits specified in Rule 8009(a) of the Rules of Bankruptcy Procedures; provided, however, that the district court or the bankruptcy appellate panel may shorten these time limits in appropriate cases.

(c) Notwithstanding Rule 8010 of the Rules of Bankruptcy Procedures, the appellant's and appellee's opening briefs shall not exceed thirty (30) pages, and reply briefs shall not exceed twenty (20) pages, exclusive of pages containing the table of contents, tables of citations and any addendum containing statutes, rules, regulations, or similar material.

(c) Effective Date

The order covering this rule became effective May 20, 1985 and supersedes all previous orders of this court regarding bankruptcy cases, proceedings, and appeals provided, however, that all prior actions of the bankruptcy appellate panel not inconsistent herewith are not affected by this rule.

LR 83.6

PERSONS APPEARING WITHOUT AN ATTORNEY PRO SE LITIGANTS

A corporation including a limited liability corporation, a partnership including a limited liability partnership, an unincorporated association, or a trust may not appear in any action or proceeding pro se.

LMR 1

GENERAL POWERS AND DUTIES CONFERRED BY STATUTE OR RULE

(a) Each United States Magistrate Judge appointed by this court is authorized to perform the duties prescribed by 28 U.S.C. § 636(a). These powers and duties include, but are not limited to the following:

(1) Acceptance of criminal complaints and issuance of arrest warrants or summonses; FED. R. CRIM. P. 4;

(2) Issuance of search warrants, including warrants based upon oral or telephonic testimony; FED. R. CRIM. P. 41;

(3) Conduct of initial appearance proceedings for defendants, informing them of the charges against them and of their rights, and imposing conditions of release; FED. R. CRIM. P. 5;

(4) Appointment of attorneys for defendants who are unable to afford or obtain counsel and approval of attorney's expense vouchers in appropriate cases; 18 U.S.C. § 3006A;

(5) Setting of bail for material witnesses; 18 U.S.C. § 3149;

(6) Conduct of preliminary examinations; FED. R. CRIM. P. 5.1 and 18 U.S.C. § 3060;

(7) Conduct of initial proceedings for defendants charged with criminal offenses in other districts; FED. R. CRIM. P. 40;

(8) Try persons accused of misdemeanors, order a presentence investigation report on any such person who is convicted or pleads guilty or nolo contendere, and sentence such persons, all in accordance with the provisions of 18 U.S.C. § 3401 and applicable rules; provided, however, that where defendant is entitled to trial by jury and does not waive that right, the trial shall be conducted by a District Judge or by a full-time magistrate judge;

(9) Authorize the issuance of subpoenas, writs of habeas corpus ad testificandum or ad prosequendum, and issue or authorize issuance of any other orders or warrants necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings;

(10) Administration of oaths and taking of bail, acknowledgments, affidavits and depositions; 28 U.S.C. § 636(a)(2);

(11) Conduct extradition proceedings, in accordance with 18 U.S.C. § 3184;

(12) Order examinations to determine mental competency under 18 U.S.C. § 4244 and conduct all further proceedings thereunder in cases to be tried by the magistrate judge;

(13) Supervise proceedings conducted pursuant to letters rogatory, in accordance with 28 U.S.C. § 1782, when designated to do so by a district judge;

(14) Accept waivers of indictment, pursuant to FED. R. CRIM. P. 7(b);

(15) Impose appropriate sanctions upon parties or counsel appearing before them in any matter referred to them or with regard to which they have independent jurisdiction;

(16) Rule upon applications to proceed in forma pauperis, pursuant to 28 U.S.C. § 1915;

(17) Rule upon motions to require defendants in criminal cases to participate in a line-up, furnish handwriting samples or furnish voice exemplars;

(18) Issuance of administrative inspection warrants;

(19) Enforcement of awards of foreign consuls in differences between captains and crews of vessels of the consul's nation; 22 U.S.C. § 258(a);

(20) Conduct of proceedings for the transfer of offenders under 28 U.S.C. § 636(g);

(21) Conduct of initial proceedings upon the appearance of an individual accused of an act of juvenile delinquency; 18 U.S.C. § 5034;

(22) Appointment of interpreters in cases initiated by the United States; 28 U.S.C. §§1827 and 1828, FED. R. CRIM. P. 28;

(23) Direction of the payment of basic transportation and subsistence expenses for defendants financially unable to bear the costs of travel to required court appearances; 18 U.S.C. § 4285;

(24) Conduct of preliminary hearings leading to the revocation of probation; FED. R. CRIM. P. 32.1;

(25) Receipt of grand jury returns; FED. R. CRIM. P. 6(f);

(26) Disposition of assessments of up to $200 for civil violations under the Federal Boat Safety Act; 46 U.S.C. §§ 4311(d) and 12309(c);

(27) Service as a member of the district's Speedy Trial Act Planning Group, including service as the reporter; 18 U.S.C. § 3168;

(28) Authorization of the disclosure of taxpayer information by the Internal Revenue Service;

(29) Service on a panel to select the Chief of an independent pretrial services agency for the district;

(b) Each United States magistrate judge appointed by this court is authorized to conduct arraignments in criminal cases not triable by the magistrate judge to the extent of taking a not-guilty plea, and further is authorized to order that arrested persons brought before him/her be released or detained, pending judicial proceedings, under the provisions of the Bail Reform Act. 18 U.S.C. § 3142, et seq.

LMR 2

RULES OF PRACTICE AND PROCEDURE IN MISDEMEANOR CASES

(a) The practice and procedure for the trial of misdemeanor cases before magistrate judges, and for the taking and hearing of appeals therefrom to the district court, shall conform to the provisions of 18 U.S.C. §§ 3401 and 3402, FED. R. CRIM. P. 58 and of any other rules promulgated by the Supreme Court pursuant to 18 U.S.C. § 3402.

(b) All informations, indictments, citations, or other instruments on file with the Clerk which charge only Class B misdemeanors (including such cases transferred to this district under FED. R. CRIM. P. 20) shall upon filing with the Clerk be assigned to a magistrate judge.

(c) Payment of the sums fixed in this court's Petty Offense Bail Schedule may be accepted in lieu of appearance and as authorizing termination of the proceedings.

Absent notice to the defendant on the face of the citation or instrument, payment of said sums is considered to be an administrative forfeiture and/or civil penalty only. No other collateral consequences shall be imposed without prior notice to the defendant.

LMR 3

NON-DISPOSITIVE PRETRIAL MATTERS

(a) In accordance with 28 U.S.C. § 636(b)(1)(A), the full-time magistrate judges in this district may, upon reference by a district judge, hear and determine any pretrial matter in a case pending before the district judge, other than those matters specified in LMR 4(a)(3), infra.

(b) Any party may appeal from a magistrate judge's determination made under this rule within 14 days after being served with a copy of the magistrate judge's order unless additional time is prescribed by the magistrate judge or district judge in accord with applicable court rule. Such party shall file with the Clerk of Court, and serve on all parties and the district judge and magistrate judge, a written notice of appeal which shall specifically designate the order or part thereof appealed from and the basis for objection thereto. The district judge shall consider the appeal and shall affirm the determination of the magistrate judge unless that determination is found to be clearly erroneous or contrary to law.

LMR 4

DISPOSITIVE PRETRIAL AND OTHER MATTERS

(a) In accordance with 28 U.S.C. § 636(b)(1)(B) and (C), the full-time magistrate judges in this district may, upon reference by a district judge, in a case pending before the district judge, hear, conduct such evidentiary hearings as are deemed necessary or appropriate by the magistrate judge, and submit to the referring district judge proposed findings of fact and/or a report and recommendation for the disposition of:

(1) Applications for post-trial relief made by individuals convicted of criminal offenses;

(2) Prisoner petitions challenging conditions of confinement;

(3) Motions for injunctive relief (including temporary restraining orders and preliminary injunctions), for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by a defendant, to suppress evidence in a criminal case, to dismiss or permit the maintenance of a class action, to dismiss for failure to state a claim upon which relief may be granted, to involuntarily dismiss an action, and for review of default judgments;

(4) Petitions or applications for judicial review of administrative determinations;

(5) Hearings to determine mental competency pursuant to 18 U.S.C. § 4244, in cases to be tried by a district judge;

(6) Petitions to enforce compliance with a summons issued by the Internal Revenue Service, pursuant to 26 U.S.C. §§ 7402(b) and 7604(a); or proceedings to quash such summonses, pursuant to § 7609.

(b) In considering prisoner applications for post-trial relief under paragraph (a)(1), the magistrate judges may perform all the duties imposed on a judge in the rules governing § 2254 and § 2255 proceedings. In so doing, a magistrate judge may issue any preliminary orders, and conduct any necessary evidentiary hearing or other appropriate proceeding. Any order disposing of the petition may only be made by a judge.

(c) Any party may object to the magistrate judge's proposed findings, recommendations or report issued under this rule within 14 days after being served with a copy thereof. Such party shall file with the Clerk of Court, and serve on all parties and the district judge and magistrate judge, written objections

which shall specifically identify the portions of the proceedings as the district judge may require. The district judge shall make a de novo determination of those portions to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The district judge, however, need not conduct a new hearing and may consider the record developed before the magistrate judge, making his/her own determination on the basis of that record. The district judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

LMR 5

SPECIAL MASTER REFERENCES

In accordance with 28 U.S.C. § 636(b)(2), the full-time magistrate judges in this district, upon reference by a district judge, may, without additional compensation:

(a) Serve as special master pursuant to FED. R. CIV. P. 53;

(b) Serve as special master to try the issues in employment discrimination cases under Title VII of the Civil Rights Act of 1964, as amended [42 U.S.C. § 2000e-5(f)(5)], without regard to the provisions of FED. R. CIV. P. 53(b), whenever the district judge determines that the case could not be scheduled for trial within one hundred and twenty (120) days after issue is joined;

(c) Serve as special master to try the issues in any civil case upon consent of the parties, without regard to the provisions of FED. R. CIV. P. 53(b).

In any civil case in which a full-time magistrate judge serves as a special master, the entry of final judgment shall be made by or at the direction of a district judge.

LMR 6

REFERENCES TO FULL-TIME MAGISTRATE JUDGES

When matters are referred by a district court judge as provided in LMR 3 through LMR 5, the magistrate judge to whom any such matter is referred shall establish the procedure for determination of any and all motions, for holding pretrial conferences, and for trial, and shall make any further necessary orders consistent with the requirements of these local rules and the instructions of the district judge to whom the case is assigned.

LMR 7

MOTION PRACTICE BEFORE MAGISTRATE JUDGES

With respect to any motion to be heard before a full-time magistrate judge, the parties shall comply in all respects with this court's local rules except for the following:

(a) Motions may be set by counsel without oral argument on any weekday. Counsel setting a hearing with oral argument shall contact the courtroom deputy of the presiding judge to determine available argument motion days.

(b) Motions will be ruled upon without oral argument unless the magistrate judge otherwise directs that the motion be noted for oral argument. The magistrate judge will consider a request for oral argument made by either party. A request for oral argument by the moving party shall be included in the motion. If the moving party fails to request oral argument, the opposing party may file and serve a written request therefor within 7 days from the date on which he/she was served with a copy of the motion.

LMR 8

OTHER DUTIES OF FULL-TIME MAGISTRATE JUDGES

The full-time magistrate judges in this district shall also:

(a) Conduct scheduling conferences, pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings when requested by a district judge;

(b) Preside at naturalization hearings when requested by the clerk;

(c) Maintain a roster of attorneys appointed to the Criminal Justice Act panel and solicit applications to the panel;

(d) In civil cases, conduct voir dire examination and impanel petit juries when requested by a district judge;

(e) Accept petit jury verdicts in civil and, with the consent of the defendant, in criminal cases when requested by or on behalf of a district judge;

(f) Conduct all proceedings relating to charges of probation violation except final revocation hearings for defendants sentenced by district judges;

(g) Have authority to order the exoneration or forfeiture of bonds;

(h) Conduct examinations of judgment debtors, in accordance with FED. R. CIV. P. 69;

(i) Establish, and from time to time amend, a schedule of fixed sums (bail schedule) to be paid in lieu of appearance in cases involving petty offenses as defined in 18 U.S.C. § 19, and designating for which such offenses court appearances shall be mandatory;

(j) Hear and determine applications by the United States to enter premises to effect a levy as provided in 26 U.S.C. § 6331;

(k) Have authority to rule upon objections to the taxing of costs;

(l) Have authority to enter orders and otherwise act on behalf of this court with respect to petitions for enforcement of subpoenas issued pursuant to the Federal Energy Administration Act of 1974, 15 U.S.C. § 761, et seq.;

(m) Have authority to order the sealing and unsealing of documents by the Clerk of the Court;

(n) Have authority to order the preparation of such transcripts of proceedings in this court as the magistrate deems necessary to a determination of any matter to be considered by him; and

(o) Perform the functions specified in 18 U.S.C. §§ 4107-4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States, and appoint counsel in such cases;

(p) Exercise all powers and duties assigned to them from time to time by the district judges which are not inconsistent with the Constitution and laws of the United States.

LMR 9

ADMINISTRATION OF CRIMINAL JUSTICE ACT PLAN

The magistrate judges in this district, when and as requested, shall assist the district judges in the administration of the Criminal Justice Act Plan for the district. The magistrate judges shall have concurrent authority with the district judges to:

(a) Supervise the panel of attorneys;

(b) Determine the eligibility of a defendant to have counsel appointed;

(c) Appoint counsel;

(d) Examine and act upon vouchers, where the majority of the hours expended regard matters before said magistrate, submitted by appointed counsel.

LMR 10

REVIEW OF CONDITIONS OF RELEASE

Request for modification of conditions of release in all criminal cases shall be heard by a magistrate judge unless otherwise directed by a district judge.

LMR 11

APPEALS TO DISTRICT JUDGE

(a) From Judgment in Criminal Case.

(1) Perfecting Appeal.

An appeal from a judgment of conviction by a magistrate judge to a judge of the District Court shall be taken within 14 days after entry of the judgment. An appeal shall be taken by filing with the Clerk of the District Court a statement specifying the judgment from which an appeal is taken, and by serving a copy of the statement upon the United States Attorney, personally or by mail, and by filing a copy with the magistrate judge.

(2) Transcript or Recording of Proceeding Before Magistrate Judge.

Where the proceedings before a magistrate judge were tape recorded, that recording will be available for review by the district judge, without further action by the parties. Where either party wishes to have a transcript made from that recording, or where the proceedings were attended by a court reporter, the party requesting the transcript shall be responsible for arranging for and paying the cost of the preparation of the transcript. A party who qualifies may obtain authorization for the transcript pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A. The party requesting the transcript shall simultaneously file and serve a written notification that a transcript has been ordered.

Where the appellant wishes a transcript of the proceedings as above outlined, this transcript shall be ordered within 14 days after filing the notice of appeal. If funding is to come from the United States under the Criminal Justice Act, the appellant is responsible for obtaining funding approval under 18 U.S.C. § 3006A within said 14-day period.

If the transcript cannot be completed within 30 days of the receipt of the order, appellant shall request an extension of the time for filing the transcript beyond this 30-day period from the district judge. The district judge may extend deadlines for filing transcripts and briefs.

(3) Other Record on Appeal.

All documents filed and exhibits presented in the proceedings before the magistrate judge shall be part of the record on appeal, without specific designation by the parties.

(4) Record of Proceedings.

The Clerk shall notify parties that the record of proceedings has been filed.

(5) Briefs.

Appellant shall file and serve his brief within 28 days after the transcript has been filed, or if no transcript is ordered, Appellant shall file and serve the brief within 28 days after the notice of appeal has been filed. Appellee shall file and serve his brief in response within 21 days thereafter. Appellant may file and serve a reply brief within 7 days thereafter. If appellant is not represented by counsel, appellant may file a short statement of the issues for the Court to consider on appeal, instead of a formal brief.

(6) Oral Argument.

The district judge shall have discretion whether to schedule oral argument on an appeal. Any party may file and serve a written request for oral argument not later than the deadline for filing of his initial brief.

(b) From Judgment in Civil Case, Tried Pursuant to 28 U.S.C. § 636(c).

(See Rule LMR12(e).)

(c) From Other Orders.

(See also Rules LMR3(b) and 4(c).)

Rulings, orders or other actions by a magistrate judge in this district, review of which is not otherwise specifically provided for by law or these rules, shall, nevertheless, be subject to review by the District Court as follows:

Any party may file and serve, not later than 14 days thereafter, an application for a review of the magistrate judge's action taken by the district judge having jurisdiction. Copies of such application shall be served promptly upon the other parties, the district judge, and the magistrate judge.

After conducting whatever further proceedings as he or she deems appropriate, the district judge may adopt or reject, in whole or in part, the action taken by the magistrate judge, or take such other action as he or she deems appropriate.

(d) Review of Detention Order.

Any review of a detention order pursuant to 18 U.S.C. § 3145(b) shall be determined promptly. The application for revocation or amendment of the magistrate judge's order shall be filed within 14 days of the order, and shall be promptly served as specified in (c) above.

The moving party, in consultation with the Clerk, shall note this motion for prompt hearing before the district judge. The moving party shall be responsible for obtaining a prompt date for said hearing.

LMR 12

CIVIL TRIALS BEFORE MAGISTRATE JUDGES BY CONSENT OF PARTIES 28 U.S.C. § 636(c)

(a) General Authority. Upon the consent of the parties, and upon the entry of an order of reference by a district judge, a full-time magistrate judge may conduct any or all proceedings in any civil case which is filed in this court, including the conduct of a jury or non-jury trial, and may order the entry of final judgment, in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings upon consent of the parties, a magistrate judge may hear and determine any and all pretrial and post-trial motions which are filed by the parties, including case-dispositive motions.

(b) Notice to Parties. At an appropriate time after a civil action is filed, the Clerk of the Court shall notify the parties of the availability of a magistrate judge to exercise jurisdiction. The notice will include a consent form and a request that the Clerk be advised of the party's intention. When a case is set for a scheduling conference, the Clerk shall again furnish a consent form to all counsel except where a consent has been filed or the Clerk is advised that a consent will not be filed.

(c) Obtaining Consent. Thereafter, either the district court judge or the magistrate judge may again advise the parties of the availability of a magistrate judge, but in so doing, shall also advise the parties that they are free to withhold consent without adverse substantive consequences.

(d) Reference. After the consent form has been executed and filed, the Clerk shall transmit it to the judge to whom the case has been assigned to consider the case for reference to a magistrate judge. The magistrate judge to whom a specific case is to be assigned shall be determined by the judge to whom the case was assigned. Once the case has been assigned to a magistrate judge, the magistrate judge shall have the authority to conduct any and all proceedings and to direct the Clerk of Court to enter a final judgment in the same manner as if a judge had presided. An order of reference can be vacated upon a proper showing, pursuant to 28 U.S.C. § 636(c)(6).

(e) Appeal.

(1) Appeal to the Court of Appeals.

Appeal from a judgment entered upon direction of a magistrate judge will lie to the United States Court of Appeals for the Ninth Circuit as it would from any other judgment of this court.

LMR 13

CHANGE OF TITLE

Each United States magistrate judge appointed under 28 U.S.C. § 631 shall be known as a United States Magistrate Judge and any reference to any United States Magistrate or Magistrate that is contained in these local rules, shall be deemed to refer to a Magistrate Judge.

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